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Abcor Inc, Wilmington, MA Walden Div

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Alaska

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This document has been produced in compliance with Section 110(h)(1) of the Clean Air Act amendments of 1977. The Federally enforceable regulations contained in the State Implementation Plans (SIPs) have been compiled for all 56 States and territories (with the exception of the Northern Mariana Islands). They consist of both the Federally approved State and/or local air quality regulations as indicated in the Federal Register and the Federally promulgated regulations for the State, as indicated in the Federal Register. Regulations which fall into one of the above categories as of January 1, 1978, have been incorporated. As mandated by Congress, this document will be updated annually. State and/or local air quality regulations which have not been Federally approved as of January 1, 1978, are not included here; omission of these regulations from this document in no way affects the ability of the respective Federal, State, or local agencies to enforce such regulations.

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Alaska

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Walden Division of Abcor, Inc.
Wilmington, Massachusetts

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EPA Project Officer: Bob Schell

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U.S. ENVIRONMENTAL PROTECTION AGENCY
Office of Air, Noise, and Radiation
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Publication No. EPA-450/3-78-051

INTRODUCTION

This document has been produced in compliance with Section 110(h)(1) of the Clean Air Act Amendments of 1977. The Federally enforceable regulations contained in the State Implementation Plans (SIPs) have been compiled for all 56 States and territories (with the exception of the Northern Mariana Islands). They consist of both the Federally approved State and/or local air quality regulations as indicated in the Federal Register and the Federally promulgated regulations for the State, as indicated in the Federal Register. Regulations which fall into one of the above categories as of January 1, 1978, have been incorporated. As mandated by Congress, this document will be updated annually. State and/or local air quality regulations which have not been Federally approved as of January 1, 1978, are not included here; omission of these regulations from this document in no way affects the ability of the respective Federal, State, or local agencies to enforce such regulations.

There have been recent changes in the Federal enforceability of parking management regulations and indirect source regulations. The October, 1977, appropriation bill for EPA prohibited Federal enforcement of parking management regulations in the absence of specific Federal authorizing legislation. Federally promulgated parking management regulations have, therefore, been suspended indefinitely. Pursuant to the 1977 Clean Air Act Amendments, indirect source regulations may not be required for the approval of a given SIP. Consequently, any State adopted indirect source regulations may be suspended or revoked; State adopted indirect source regulations contained in an applicable SIP are Federally enforceable. More importantly, EPA may only promulgate indirect source review regulations which are specific to Federally funded, operated, or owned facilities or projects. Therefore, the Federally promulgated indirect source regulations appearing in this document are not enforceable by EPA except as they relate to Federal facilities.

Since State air quality regulations vary widely in their organization, content, and language, a standardized subject index is utilized in this document. Index listings consist of both contaminant and activity oriented categories to facilitate usage. For example, for regulations which apply to copper smelters, one might look under sulfur compounds (50.2), particulate matter process weight (50.1.1), or copper smelters (51.15). Federal regulations pertaining to a given State immediately follow the approved State and local regulations.

Additionally, a summary sheet of the information included in each comprehensive document is presented prior to the regulatory text to allow one to quickly assess the contents of the document. Specifically, the summary sheets contain the date of submittal to EPA of each revision to the SIP and the date of the Federal Register in which the revision was either approved or disapproved by EPA. Finally, a brief description or reference of the regulation which was submitted is also included.

This document is not intended to provide a tool for determining the enforceability of any given regulation. As stated above, it is intended to provide a comprehensive compilation of those regulations which are incorporated directly or by reference into Title 40, Part 52, of the Code of Federal Regulations. Consequently, the exclusion of a Federally approved regulation from this document does not diminish the enforceability of the regulation. Similarly, the inclusion of a given regulation (for example, regulations governing pollutants, such as odors, for which there is no national ambient air quality standards) in this document does not, in itself, render the regulation enforceable.

SUMMARY SHEET

OF

EPA-APPROVED REGULATION CHANGES

ALASKA

Submittal Date	Approval Date	Description
6/22/72	7/27/72	Emergency Regulations

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(2.0) 18 AAC 50.010 APPLICABILITY OF LOCAL GOVERNMENT REGULATIONS

A local air quality control agency may establish the same or more stringent regulations, but not less stringent regulations as the applicable regulations specified in this chapter. (Eff. / / , Reg.).

AUTHORITY: AS 46.03.020 (10) (A)
AS 46.03.140

(4.0) 18 AAC 50.020 AMBIENT AIR QUALITY STANDARDS

(a) The State ambient air quality shall be maintained at the lowest practicable air contaminant concentrations. In no event shall these concentrations exceed the following levels corrected to standard conditions.

(1) Suspended particulate matter

(A) annual geometric mean; 60 micrograms per cubic meter.

(B) 24-hour maximum not be exceeded more than once a year; 150 micrograms per cubic meter.

(2) Sulfur oxides (measured as sulfur dioxide)

(A) annual arithmetic mean; 60 micrograms per cubic meter.

(B) 24-hour maximum not to be exceeded more than once a year; 260 micrograms per cubic meter.

(C) 3-hour maximum not to be exceeded more than once a year; 1300 micrograms per cubic meter

(3) Carbon monoxide not be exceeded more than once a year;

(A) 8-hour maximum; 10 milligrams per cubic meter.

(B) 1-hour maximum; 40 milligrams per cubic meter.

(4) Photochemical oxidants

1-hour maximum not to be exceeded more than once a year; 160 micrograms per cubic meter.

(5) Nitrogen dioxide

annual geometric mean; 100 micrograms per cubic meter.

(6) Hydrocarbons

3-hour maximum not to be exceeded more than once a year; 160 micrograms per cubic meter.

(b) In areas where existing air quality is better than the ambient air quality standards specified in (a) above, the department shall enforce the air contaminant emission requirements as specified in this chapter so as to minimize degradation of the air quality. (Eff. / / , Reg.).

AUTHORITY: AS 46.03.010
AS 46.03.020 (10) (A)
AS 46.03.140

(51.13) 18 AAC 50.030 OPEN BURNING

(a) Within unified municipalities, incorporated cities, and service areas having refuse pickup:

(1) Open burning is permissible except that those materials which tend to result in the emission of black smoke or odors, including but not limited to putrescible garbage, asphalt, rubber, oil wastes, and asphalt-impregnated materials, may not be burned in the open. Permissible open burning is further subject to the limitations of (d) and (e) of this section, and the exception of (c) of this section.

(2) The open burning of debris, trees and brush accumulated during land clearing operations shall be conducted, except as specified in (d) of this section, in such a way as to obtain maximum combustion efficiency throughout the burning period. Tires or similar organic matter may not be used to start or maintain the fire.

(b) For areas not covered by (a) of this section, open burning for the disposal of oils, oily wastes, asphalt and tars and similar waste materials is prohibited unless conducted pursuant to a permit from the department.

(c) Controlled fires for the purpose of training fire fighting personnel require prior written approval from the department. Controlled fires for disposing of demolition wastes require prior written approval from the department. After such fires have been conducted, summary reports shall be submitted to the department.

(d) No open burning shall be allowed if an air quality advisory is broadcast on a radio or television station in an area, stating that burning is not permitted for that day. This advisory shall be based on weather conditions being such that air ventilation in the affected area is inadequate to provide for maintenance of the ambient air quality standards specified in section 20 of this chapter.

(e) Open burning shall be regulated at landfill sites as specified in Title 18 AAC 60, SOLID WASTE MANAGEMENT. (Eff. / / , Reg.).

AUTHORITY: AS 46.03.020(10)(A)
AS 46.03.140

(51.9) 18 AAC 50.040 INCINERATORS

(a) Visible emissions, excluding condensed water vapor, from incinerators may not result in a reduction of visibility through the exhaust effluent greater than:

(1) 20 percent for those incinerators installed on or after July 1, 1972.

(2) 40 percent for incinerators installed and operating prior to July 1, 1972. These incinerators shall comply with the requirements of (a)(1) of this section after July 1, 1975.

for a period or periods aggregating more than three minutes in any hour.

(b) Particulate matter emitted from incinerators installed on or after July 1, 1972, and from all incinerators after July 1, 1975, may not exceed, on the basis of a cubic foot of exhaust gas corrected to 12 percent CO_2 and standard conditions, and except as specified in (c) and (d) of this section:

(1) 0.3 grains for incinerators less than or equal to 200 pounds per hour rated capacity;

(2) 0.2 grains for incinerators larger than 200 but equal to or less than 1000 pounds per hour rated capacity;

(3) 0.1 grains for incinerators larger than 1000 pounds per hour rated capacity.

(c) Particulate matter emitted from tepee burners may not exceed, on the basis of a cubic foot of exhaust gas corrected to 12 percent CO_2 and standard conditions.

(1) 0.1 grains for those burners installed or modified on or after July 1, 1972.

(2) 0.2 grains for those burners in operation prior to July 1, 1972.

(d) Particulate matter emitted from air curtain incinerators may not result in a visible emission, excluding condensed water vapor, which causes a reduction in visibility of greater than 20 percent for a period or periods aggregating more than three minutes in any hour. No person may operate an air curtain incinerator, regardless of size, without prior written approval from the department.

(Eff. / / , Reg.).

AUTHORITY AS 46.03.020(10)(A)
AS 46.03.140
AS 46.03.150

(51.5) (51.6) 18 AAC 50.050 INDUSTRIAL PROCESSES AND FUEL BURNING

(a) Visible emissions, excluding condensed water vapor, from industrial processes or fuel burning equipment may not result in a reduction of visibility through the exhaust effluent of greater than 20 percent for a period or periods aggregating more than three minutes in any hour.

(b) Particulate matter emitted from industrial processes or fuel burning equipment may not exceed, on the basis of a cubic foot of exhaust gas corrected to standard conditions:

(1) 0.05 grains except as noted in (2) and (3) below;

(2) 0.1 grains for those sources in operation prior to July 1, 1972, and for fuel burning equipment using coal or municipal waste as fuel;

(3) 0.15 grains for fuel burning equipment using wood waste as fuel.

(c) Sulfur compound emission from industrial processes or fuel burning equipment may not exceed 500 ppm expressed as SO_2.

(d) No person shall cause or permit bulk materials to be handled, transported or stored without taking reasonable precautions to prevent particulate matter from becoming airborne. (Eff. / / , Reg.).

AUTHORITY: AS 46.03.020(10)(A)
AS 46.03.140
AS 46.03.150

(51.14) 18 AAC 50.060 PULP MILLS

(a) Air contaminant emission from pulp mills may not exceed, based on 24-hour averages and each ton of pulp produced:

(1) 20 pounds of sulfur oxides from sulfite pulp mills, expressed as SO_2, from all blow pits, washer vents, storage tanks, digester relief and recovery systems;

(2) two pounds of particulate matter from all blow pits, washer vents, storage tanks, digester relief and recovery systems in kraft or sulfite mills;

(3) five ppm of total reduced sulfur, expressed as H_2S on a dry basis, from each kraft pulp mill recovery furnace stack.

(b) Non-condensibles from kraft pulp mill digesters and multiple effect evaporators shall be treated to reduce emissions of total reduced sulfur to a level equal to that which would be obtained by the reduction achieved by thermal oxidation in a lime kiln.

(c) Operators shall maintain and operate continuous emission recording and ambient air monitoring devices as specified by the department. Data acquired shall be available for inspection by, and provided on a routine basis to, the department. (Eff. / / , Reg.).

AUTHORITY: AS 46.03.020(10)(A)
AS 46.03.140
AS 46.03.150

(12.0) 18 AAC 50.070 MOTOR VEHICLE EMISSIONS

(a) Emissions from gasoline-powered motor vehicles may not be visible, excluding condensed water vapor.

(b) Visible emissions from diesel powered motor vehicles, excluding condensed water vapor, may not result in a reduction of visibility of greater than 40 percent through the exhaust effluent.
(Eff. / / , Reg.).

AUTHORITY: AS 46.03.020(10)(A)
AS 46.03.140
AS 46.03.150

(50.5) 18 AAC 50.080 CARBON MONOXIDE LIMITATIONS

All motor vehicle traffic, except emergency vehicles, shall be routed around areas where ambient air levels of carbon monoxide reach or are predicted to reach 17 milligrams per cubic meter on an eight hour average after July 1, 1972. This level shall be 10 milligrams per cubic meter after July 1, 1975.
(Eff. / / , Reg.).

AUTHORITY: AS 46.03.020(10)(A)
AS 46.03.140
AS 46.03.150

(50.7) 18 AAC 50.090 ICE FOG LIMITATIONS

The department may require any person proposing to build or operate an industrial process, fuel burning equipment or incinerator in areas of potential ice fog. to obtain a permit to operate and to reduce water emissions. (Eff. / / , Reg.).

AUTHORITY: AS 46.03.020(10)(A)
AS 46.03.140
AS 46.03.150

(50.1.2)18 AAC 50.100 MARINE VESSELS

Within three miles of the coastline of Alaska, visible emissions from any marine vessel excluding water vapor, may not result in a reduction of visibility through the exhaust effluent of greater than 40 percent for a period or periods aggregating more than three minutes in any one hour. (Eff. / / , Reg.).

AUTHORITY: AS 46.03.020(10)(A)
AS 46.03.140
AS 46.03.150

(2.0) 18 AAC 50.110 AIR POLLUTION PROHIBITED

No person may permit any emission which is injurious to human health or welfare, animal or plant life or property, or would unreasonably interfere with the enjoyment of life or property. (Eff. / / , Reg.).

AUTHORTIY: AS 46.03.020(10)(A)
AS 46.03.140
AS 46.03.710

(3.0) 18 AAC 50.120 PERMIT TO OPERATE

(a) A permit to operate is required, if the facility is capable of emitting into the ambient air, regardless of whether air quality control equipment is operating, more than:

(1) 25 tons per year of sulfur dioxide or particulate matter.

(2) 100 tons per year of either nitrogen oxides, or carbon monoxide, or hydrocarbons.

(b) A permit to operate is required for all mercury retorts, regardless of size.

(c) A permit to operate is required for all fuel burning electric generating equipment greater than 250 kilowatts capacity if such equipment is put into operation after July 1, 1972.

(d) No person shall operate or cause the operation of a source requiring a permit without applying for and obtaining a permit from the department. Application for a permit to operate shall be made by the owner or operator on forms provided by the department. All persons operating sources on the effective date of these regulations and requiring a permit shall apply for such permit on or before July 1, 1972.

(e) Submittal of emission data is required when the amount of hydrocarbons, carbon monoxide, nitrogen oxides, sulfur oxides, or particulate matter which can be emitted from a facility into the ambient air, regardless of whether air quality control equipment is operating, is greater than five tons per year. Data submittal is required every two years, starting on July 1, 1973, on forms provided by the department.

(f) No person may construct or modify a facility requiring a permit to operate until detailed plans and specifications are submitted to the department and approved. These plans and specifications shall include the following information:

(1) two sets of plans and specifications, clearly indicating the layout and the construction which will be undertaken;

(2) two sets of maps or aerial photographs indicating land use and zoning within one mile of the facility. The map or aerial photograph shall be of adequate scale to show all homes, industrial buildings, water courses, road and other applicable details and shall indicate the general topography;

(3) an engineering report outlining the proposed methods of operation, the quantity and source of material to be processed, the proposed use and distribution of the processed material and related process details, and a process flow diagram indicating the points of emission including estimated quantities and types of air contaminants to be emitted;

(4) a description and specifications of all air quality control devices;

(5) an evaluation of the effect on the surrounding ambient air of the emissions from the facility;

(6) plans for emission reduction procedures during an air episode.

(g) Approval to construct a new source may not be granted unless the applicant shows to the satisfaction of the department that:

(1) the new source will not prevent or interfere with the attainment or maintenance of any applicable ambient air quality standard specified in section 20 of this chapter;

(2) the new source will operate without causing a violation of applicable regulations established under AS 46.03.

(h) A compliance schedule is required as part of a permit to operate for facilities emitting air contaminants in excess of the limitations of this chapter. Those facilities in operation prior to July 1, 1972 and requiring a compliance schedule shall be in compliance with requirements of this chapter by July 1, 1975.

(i) A permit to operate may:

(1) not be transferred without the written consent of the department;

(2) not be issued for a period greater than five years after which the permit must be renewed for continued source operation. A permit requiring a compliance schedule must be reviewed and renewed every year of its duration;

(3) not be granted to a person under (h) of this section unless a compliance schedule approved by the department is included:

(4) require that specific emission reduction procedures be taken during an air episode.

(j) Upon notice to any person, such person operating facilities emitting air contaminants judged by the department to be highly toxic shall be required to obtain a permit to operate.

(k) The department may require an applicant for a permit to operate to install, use, and maintain monitoring equipment; to sample emissions in accordance with methods prescribed by the department, at locations, intervals and by procedures as may be specified; to provide source test ports, to provide emission data and information from analyses of any test samples, and to provide periodic reports on process emissions.

(l) If an application for a permit to operate is denied, the department shall notify the applicant in writing of the reasons.
(Eff. / / , Reg.).

AUTHORITY: AS 46.03.010
AS 46.03.020(10)(A)
AS 46.03.140
AS 46.03.150
AS 46.03.160
AS 46.03.170

(3.0) 18 AAC 50.130 REVOCATION OR SUSPENSION OF PERMIT

A permit to operate may be revoked or suspended if the conditions of the permit or applicable laws or regulations are violated.
(Eff. / / , Reg.).

AUTHORITY: AS 46.03.020(10)(A)
AS 46.03.140
AS 46.03.160
AS 46.03.170

(8.0) 18 AAC 50.140 AIR EPISODES

An air episode shall be declared when in the opinion of the commissioner the concentration of air contaminants in the ambient air has reached or is predicted to reach any of the following levels:

(1) Air Alert:

(A) sulfur dioxide 800 micrograms per cubic meter (24 hour average)

(B) particulate matter 3.0 coefficient of haze units or 375 micrograms per cubic meter (24 hour average)

(C) carbon monoxide 17 milligrams per cubic meter (8 hour average)

(2) Air Warning:

(A) sulfur dioxide 1600 micrograms per cubic meter (24 hour average)

(B) particulate matter 5.0 coefficient of haze units, or 625 micrograms per cubic meter (24 hour average)

(C) carbon monoxide 24 milligrams per cubic meter (8 hour average)

(3) Air Emergency:

(A) sulfur dioxide 2,100 micrograms per cubic meter (24 hour average)

(B) particulate matter 7.0 coefficient of haze units, or 875 micrograms per cubic meter (24 hour average)

(C) carbon monoxide 46 milligrams per cubic meter (8 hour average)

The commissioner shall prescribe and publicize curtailment actions when the above levels of air contaminants are, or are about to be, reached. (Eff. / / , Reg.).

AUTHORITY: AS 46.03.020(10)(A)
AS 46.03.820

(9.0) 18 AAC 50.150 SOURCE TESTING

(a) The department may conduct or have conducted source testing in order to determine compliance with this chapter.

(b) Testing to determine compliance with provisions of this chapter shall be by methods of measurement approved by the department and undertaken at such a point or points as to characterize the actual discharge into the ambient air.

(c) Particulate matter emission requirements specified in this chapter shall be measured by the methods comparable to those outlined in the American Society of Mechanical Engineers Power Test Code PTC 27-1957, entitled "Determining Dust Concentration in the Gas Stream", modified to include a high efficiency filter. A copy of this document is on file in the Lieutenant Governor's Office. Additional copies may be obtained from department offices in Juneau.

(d) Air contaminant emission tests shall be conducted at maximum rated burning or operating capacity of the unit, or such other rate as may be determined by the department to characterize the emissions from the unit. (Eff. / / ,Reg.).

AUTHORITY: AS 46.03.020(10)(A)
AS 46.03.140
AS 46.03.150 (b)

(2.0) 18 AAC 50.160 CIRCUMVENTION

(a) The use of air for dilution of emission contaminants without affecting any total decrease in such contaminants shall not be permitted as a method to effect compliance with the requirements of this chapter.

(b) Any facility modified on or after July 1, 1972 shall meet the requirements applicable to new facilities installed on or before July 1, 1972.

(c) The total of the capacities for all process fuel burning or incinerator units in a facility shall be considered as the facility capacity for that type of unit.

(d) Persons owning or operating facilities emitting air contaminants subject to the limitations of this chapter shall be held responsible for insuring that those facilities are in compliance with this chapter. (Eff. 5/26/72, Reg. 42).

AUTHORITY: AS 46.03.020(10)(A)
AS 46.03.140

(e) The department may require an operator of any air contaminant source to maintain records and periodically report on the nature and amounts of emissions as may be necessary to determine compliance of the source with the applicable emission or ambient air standards pursuant to this chapter.

(f) The department shall deny to any person the construction or modification of any air contaminant emission source, if the commissioner finds that the construction or operation of the source will result in a violation of the applicable emission standards or will interfere with the attainment or maintenance of the ambient air standards pursuant to this chapter. (Eff. / / , Reg.).

AUTHORITY: AS 46.03.020(A)
AS 46.03.140
AS 46.03.150
AS 46.03.160

(2.0) 18 AAC 50.170 AIR QUALITY CONTROL PLAN

The plan, established on July 1, 1972, for implementing and enforcing this chapter, is on file in the Office of the Lieutenant Governor and is incorporated by reference as part of this chapter. (Eff. / / , Reg.).

AUTHORITY: AS 46.03.020(10)(A)
AS 46.03.140

(15.0) 18 AAC 50.180 PENALTIES

A person who violates any provision of this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than $5,000, or by imprisonment for not more than one year, or by both. Each day of violation constitutes a separate offense. (Eff. / / , Reg.).

AUTHORITY: AS 46.03.710
AS 46.03.760

(1.0) 18 AAC 50.190 DEFINITIONS

(1) "air contaminant" means dust, fumes, mist, smoke, fly ash, and other particulate matter, vapor, gas, odorous substances, or any combinations thereof.

(2) "air curtain incinerator" means an incinerator in which large quantities of combustible materials are burned in a rectangular container which is equipped with an overfire air system.

(3) "ambient air" means that portion of the surrounding atmosphere which may affect persons in the area.

(4) "Commissioner" means Commissioner of the Department of Environmental Conservation.

(5) "Department" means the Department of Environmental Conservation.

(6) "Emission" means release of air contaminants into the environment.

(7) "Facility" means a unit or multiple units built, installed or established to serve a particular purpose.

(8) "Fuel burning equipment" means any combustion device or part thereof capable of emission but excludes mobile internal combustion engines, incinerators, marine vessels, indoor fireplaces, backyard barbecues, and home cooking devices.

(9) "Incinerator" means any equipment, device or contrivance, excluding indoor fireplaces, used for the thermal reduction of garbage or other wastes.

(10) "Opacity" means the characteristic of a substance which renders it partially or wholly impervious to transmittance of light and causes obstruction of an observer's view.

(11) "Open burning" means the burning of any material such that the products of combustion are emitted directly into the ambient air without passing through a stack or flare.

(12) "Particulate matter" means any material, except water, which is, or has been, airborne and exists as a liquid or a solid at standard conditions.

(13) "Ppm" means parts per million by volume.

(14) "Person" means any individual, public or private corporation, political subdivision, government agency, municipality, industry, copartnership, association, firm, trust, estate, or any other entity whatsoever.

(15) "Putrescible garbage" means material capable of being decomposed with sufficient rapidity as to cause nuisance or obnoxious odors.

(16) "Reduction of visibility" means the obscuration of an observer's vision, as determined by the method of observation described in the U.S. Bureau of Mines Information Circular No. 8333, dated May 1967, Department of the Interior, and modified to account for equivalent opacity. This document is on file in the Lieutenant Governor's Office. Additional copies of this document may be obtained from the department office in Juneau.

(17) "Source" means anything which may emit air contaminants.

(18) "Stack" means any chimney or conduit through which air or air contaminants are emitted into the environment.

(19) "Standard conditions" means a dry gas at a temperature of 70 degrees Fahrenheit and a reference pressure of 14.7 pounds per square inch. (Eff. / / , Reg.).

AUTHORITY: AS 46.03.020(10)(A)
AS 46.03.140

SUMMARY OF THE COOK INLET AIR RESOURCES

Management District's Regulation I

The Regulation is comprised of five articles as follows:

Article I

Consists of definitions of terms found in the Regulation.

Article III

It is the enabling legislation passed by each of the three Borough assemblies. It establishes the Air Pollution Commission of the District and delegates certain authorities to the Commission. The Commission has the authority to establish ambient air quality standards, emission standards, adopt rules and regulations, hold public hearings, issue and enforce orders necessary to effectuate its regulations, require access to records, contract with other agencies, receive funds or property, and take emergency actions to abate high levels of air pollutant concentrations.

Article V

Establishes a requirement for the registration of air contaminant sources. The article also lists types of equipment which are exempted from registration. Sources exempted are those which would only add water vapor to the atmosphere or would add contaminants of a concentration, particle size, or amount which could not be considered detrimental to the area's air quality.

Article VII

Establishes the requirement for a Notice of Construction and Application for Approval before a new air contaminant source is constructed or before a new source is altered. The application must include sufficient information to enable the District staff to evaluate the emissions from the source and their degree of compliance with District emission regulations. Construction or alteration may not begin until after the application is approved. The article also establishes time limits for actions on notices and methods for appealing denials.

Article IX

Establishes definite emission regulations dealing with particulate material, certain gaseous pollutants, odors, and open burning. Particulate material emissions are dealt with using opacity, process weight, and grain loading standards.

Sources in existence prior to the effective date of the Regulation, January 4, 1971, must not exceed Ringelmann #2 or 40% opacity for more than three minutes in any one hour. All sources installed after January 4, 1971, and all sources in existence after January 4, 1976, must not exceed Ringelmann #1 or 30% opacity for more than three minutes in any one hour.

Sources in existence prior to January 4, 1971, are required to comply with the process weight curve allowing a maximum particulate emission of 150 lbs./hr. at a process weight of 10 million lbs./hr. Sources installed after January 4, 1971, and all sources in existence after January 4, 1976, must comply with the process weight curve allowing a maximum particulate emission of 40 lbs./hr. for a process weight of 60 thousand lbs. or more per hour.

All sources of particulate matter in the District must also comply with a grain loading standard of 0.3 grains of particulate material per standard foot of exhaust gas. Combustion processes must calculate their emissions to twelve percent of carbon dioxide at standard conditions.

Sulfur dioxide is the only gaseous pollutant controlled and may not exceed 500 parts of SO_2 per million parts of exhaust gas.

Odor bearing gases or sources of odors must be controlled to keep odor emissions to a reasonable minimum.

Outdoor fires are regulated by areas. In the Kenai Peninsula and Matanuska-Susitna Boroughs only the burning of dumps and industrial waste are prohibited. In the Anchorage Borough all fires except land clearing fires (slash burning) and fires for social, pleasure, ceremonial, and safety purposes are allowed. Within the urban area of Anchorage, slash burning is also prohibited.

TRI-BOROUGH AIR RESOURCES MANAGEMENT DISTRICT

ARTICLE I

(2.0) Section 1.01 SHORT TITLE

This regulation may be known and cited as regulation 1 of the Tri-Borough Air Resources Management District.

(1.0) Section 1.03 GENERAL DEFINITIONS

(a) "Air contaminant" means dust, fumes, mist, smoke, other particulate matter, vapor, gas, odorous substance, or any combination thereof.

(b) "Air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in sufficient quantities and duration that tend to be injurious to human health or welfare, animal or plant life, or property, or which would unreasonably interfere with the enjoyment of life and property.

(c) "Alteration" means any addition to or enlargement or replacement of, or any major modification or change of the design, capacity, process or arrangement, or any increase in the connected loading of, equipment or control apparatus which will significantly increase or adversely affect the kind or amount of air contaminant emitted.

(d) "Atmosphere" or "Ambient air" means the surrounding outside air.

(e) "Commission" means the Air Pollution Control Commission of the Tri-Borough Air Resources Management District.

(f) "Director" means the Director of the Air Pollution Control Commission or his authorized representative.

(g) "District" means the Tri-Borough Air Resources Management District, including the Greater Anchorage Area Borough, the Kenai Peninsula Borough, and the Matanuska Susitna Borough.

(h) "Emission" means a release into the outdoor atmosphere of air contaminants.

(i) "Equipment" means any stationary or portable device or any part thereof capable of causing the emission of any air contaminant into the atmosphere.

(j) "Equipment used in a Manufacturing Process" means equipment, as defined in Subsection 1.03 (i) in which some air contaminant emitted is caused by a manufacturing process.

(k) "Excess air" means the quantity of air which exceeds the theoretical quantity of air required for complete combustion.

(l) "Fire Chief" means a Borough Fire Marshall, City Fire Chief, Chief of each Borough Fire Protection District or his authorized representative.

(m) "Incinerator" means a furnace for the destruction of waste.

(n) "Installation" means the placement, assemblage or construction of equipment or control apparatus at the premises where the equipment or control apparatus will be used.

(o) "Outdoor fire" means the burning of any matter in such a manner that the products of combustion resulting from the burning are emitted directly into the atmosphere without passing through an approved stack, duct, vent, or chimney.

(p) "Owner" includes the person who leases, supervises or operates the equipment or control apparatus.

(q) "Particulate matter" means any liquid other than water, or any solid which is so finely divided as to be capable of becoming windblown or being suspended into air or other gas vapor.

(r) "Process weight" means total weight of the materials consumed or charged in any specific process including solid fuels charged, but excluding liquid and gaseous fuels, and combustion air.

(s) "Process weight per hour" means process weight divided by the number of hours from the beginning of any specific process to the completion of the process, excluding any time during which the equipment used in the process is idle.

(t) "Person" means and includes any individual, firm, public or private corporation, association, partnership, political subdivision, municipality or governmental agency.

(u) "Refuse burning equipment" means equipment as defined in Subsection 1.03 (i), designed to burn waste material, scrap, or combustible remains.

(v) "Regulation" means any regulation or any subsequently adopted addition or amendments thereto of the Tri-Borough Air Resources Management District.

(w) "Standard cubic foot of gas" means that amount of the gas which would occupy a cube having dimensions of one foot on each side, if the gas were free of water vapor and at a pressure of 14.7 P.S.I.A. and a temperature of 60 degrees F.

(x) "Waste (Industrial)" is any material resulting from a production or manufacturing operation having no economic value to the source producing it.

AIR POLLUTION CONTROL COMMISSION

ARTICLE III

(2.0) Section 3.01 AIR POLLUTION CONTROL COMMISSION

There is created the Air Pollution Control Commission of the Tri-Borough Air Resources Management District, hereinafter known as the District, the members of which shall be two members elected from each of the Borough Assemblies of the Matanuska Susitna, Kenai and Greater Anchorage Area Boroughs. The Commission shall appoint a director to act as an advisor, as Commission secretary, and to perform such other functions as provided in this chapter and as the Commission shall direct. The Commission shall select its own Chairman from among the voting members.

(2.0) Section 3.03 TERM

The term of the members shall be for the duration of their service on the separate Borough Assemblies. When a vacancy occurs, the Borough Assembly, of which the vacating Commissioner was a member, shall elect a new member to the Commission. Members of the Commission shall receive a salary of $35 per meeting day and are entitled to per diem inthe amount of $35 and travel expenses while attending Commission business.

(2.0) Section 3.05 MEETINGS

The Commission shall hold at least six regular meetings each year and additional meetings which the Chairman considers desirable, at a place and time to be fixed by the Chairman. Special meetings shall be called by the Chairman upon the written request of four members. Four voting members shall constitute a quorum. The Commission may receive administrative services from the Director.

(2.0) Section 3.07 POWERS

A. The Commission shall have power to:

1. Establish ambient air quality standards for the District after public hearing.

2. Establish standards for or otherwise control emissions after public hearing.

3. Adopt such rules and regulations as may be necessary to achieve the objectives of the District after public hearing.

4. Hold such public hearings as it deems necessary for the administration and enforcement of its regulations and the State Law and to compel the attendance of witnesses and production of evidence. In holding such hearings, the Commission shall

establish such rules or procedures as it finds reasonable and necessary.

5. Issue such orders as may be necessary to effectuate the provisions of this article and enforce them by appropriate administrative judicial proceedings.

6. Require access to records relating to emissions which cause or contribute to air contamination, but in strict conformity with Section 3.21 of this article.

7. Sue or be sued in the name of the District in all actions and proceedings in courts of competent jurisdiction.

8. Establish and maintain such offices as the Commission may authorize.

9. Contract with one or more Boroughs (Municipalities), the State, the Federal Government,or any agency of the State for the services of competent personnel.

10. Receive by grant, purchase, gift, lease, or other means, such real and personal property as may be necessary to carry on the purpose of this article.

    This shall include the right to dispose of such property whenever in the judgement of the Commission, such property is no longer needed by the District.

B. The Director shall have the power to:

1. Enforce the provisions of this article and all of the orders, regulations, and rules adopted by Commission pursuant to this article.

2. Enforce all variances and standards approved by the Commission.

3. Perform such other duties as may be assigned by the Commission of required to administer this article.

4. Serve as a non-voting member and Secretary of the Commission.

(3.0)
(13.0)

Section 3.09 CLASSIFICATION, REPORTING, AND REGISTRATION

A. The Commission, by rules or regulations, may classify and require the registration of air contaminant sources, which in its judgement may cause or contribute to air pollution, according to levels and types of emissions and other characteristics which relate to air pollution, and may require reporting for the classifications. Classifications made under this subsection may be for application to the District as a whole or to a designated area of the District and shall be made with special reference to effects on health, economic, and social factors and physical effects on property.

B. A person operating or responsible for the operation of air contaminant sources of a class for which the rules and regulations of the Commission require registration shall make reports containing the information required by the Commission or the Director concerning location, size and height of contaminant outlets, processes employed, fuels used and nature and time periods or duration of emissions; and other information relevant to air pollution and available or reasonably capable of being assembled.

(2.0) Section 3.11 ADDITIONAL CONTAMINANT CONTROL MEASURES

A. The Commission may require that notice be given to it before the undertaking of the construction, installation, or establishment of particular types or classes of new air contaminant sources specified in its rules and regulations. Within fifteen (15) days of its receipt of the notice, the Commission may require, as a condition precedent to this undertaking, the submission of plans and other information it considers necessary in order to determine whether the proposed undertaking will be in accord with applicable rules and regulations in force under this article. If within thirty (30) days of receipt of these plans and information, the Commission determines that the porposed undertaking will not be in accord with the requirements of this article and applicable rules and regulations, it shall issue an order prohibiting the undertaking. Failure to issue the order within the time prescribed shall be considered and approval of the plans and information and the undertaking may proceed in accordance with them.

B. A person subject to an order or prohibition as prescribed in (A) of this section, upon written request in accordance with rules of the Commission, is entitled to a hearing before the Commission on the order. Following the hearing the order may be affirmed, modified, or withdrawn.

C. For the purpose of this article, addition to or enlargement or replacement of an air contaminant source, or a major alteration of one, shall be construed as an undertaking for the construction, installation or establishment of a new air contaminant source.

D. Any features, machines, or devices constituting parts of, or called for by, plans or other information submitted under (A) of this section or which may affect emissions classified under Section 3.09, shall be maintained in good working order.

E. Nothing in this section may be construed to authorize the Commission to require the use of machinery, devices, or equipment from a particular supplier or produced by a particular manufacturer if the required performance standards may be met by machinery, devices or equipment available from other sources.

F. The absence of or Commission failure to issue a rule, regulation or order under this section, does not relieve a person from compliance with emission control requirements or other provisions of law.

G. The Commission may require the payment of a reasonable fee for the review of plans and information required to be submitted.

(2.0) Section 3.13 INSPECTION

For the purpose of ascertaining the state of compliance with this article and appropriate rules and regulations, a duly authorized officer, employee or representative of the Commission may, at a reasonable time and upon presentation of a proper search warrant, if necessary, enter and inspect the property and premises where an air contaminant source is located or is being constructed. No person may refuse entry or access to an authorized representative of the Commission who requests entry for purposes of inspection and who presents appropriate credentials; nor may a person interfere with the inspection. The director shall give the owner or operator of the premises a report setting out all facts found which relate to compliance status.

(2.0) Section 3.15 EMISSION CONTROL REQUIREMENTS

The Commission may establish emission control requirements which in its judgement are necessary to prevent, abate, or control air pollution. These requirements may be for the District as a whole or may vary from area to area as may be appropriate to facilitate accomplishment of the purposes of this article and in order to take account of varying local conditions.

(8.0) Section 3.17 EMERGENCY PROCEDURE

A. If the Director finds that a generalized condition of air pollution exists and that it creates an emergency requiring immediate action to protect human health or safety, he shall, with concurrence of the Borough Chairman of the Borough in which the emergency arises, order persons causing or contributing to such air pollution to reduce or discontinue immediately the emission of such air contaminants. The order shall fix a place and time, not more than twenty-four (24) hours later for a hearing before the Commission. Within twenty-four (24) hours after commencement of the hearing and without adjournment of it, the Commission shall affirm, modify or set aside the order of the Director.

B. In the absence of a generalized condition of air pollution of the type referred to in (A) of this section, but if the Director finds that emissions from the operation of one or more contaminant source is causing imminent danger to human health or safety, he may order the person responsible for the operation in question to reduce or discontinue emissions immediately, without regard to Section 3.17 (A) of this article. If an order is issued, the hearing requirements of (A) of this section apply.

(5.0) Section 3.19 VARIANCES

A. A person who owns or is in control of a plant, building, structure, establishment, process, or equipment, may apply to the Commission for a variance from rules or regulations. The Commission may grant the variance, but only after public hearing following due notice, if it finds that:

1. The emissions proposed to occur do not endanger human health or safety; and

2. Compliance with the rules or regulations from which the variance is sought would product serious hardship without equal or greater benefits to the public.

B. No variance may be granted under this section until the Commission has considered the relative interests of the applicant, other owners or property likely to be affected by the emissions, and the general public.

C. A variance or its removal, granted under (A) of this section, shall be for periods and under conditions consistent with the reasons for it and within the following limitations:

1. If the variance is granted on the grounds that there is no practicable means known or available for the adequate prevention, abatement or control of the air pollution involved, it shall apply only until the necessary means for prevention, abatement or control become known and available, subject to the taking of substitute or alternate measures that the Commission may prescribe.

2. If the variance is granted on the grounds that compliance with the particular requirement will necessitate the taking of measures which because of their complexity or cost will involve considerable hardship, it shall be for a period of time which in the opinion of the Commission is necessary and reasonable. A variance granted on this ground shall contain a timetable.

3. If the variance is granted on the grounds that it is justified to relieve or prevent hardship of any kind, including those provided in (C) (1) and (2) of this section, it shall be for not more than one year.

D. A variance granted under this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. If complaint is made to the Commission on account of the variance, no renewal of it shall be granted unless, after public hearing on the complaint following the notice, the Commission finds that renewal is justified. No renewal may be granted except upon application for it. This application shall be made at least sixty (60) days before the expiration of the variance. Immediately upon receipt of an application for renewal, the Commission shall give public notice of it.

E. A variance or renewal is not a right of the applicant but shall be in the discretion of the Commission. However, a person adversely affected by a variance or renewal granted by the Commission may obtain judicial review of the Commission order. Judicial review of the denial of a variance or renewal may be had only on the grounds that the denial was arbitrary or capricious.

F. No variance or renewal granted under this section may be construed to prevent or limit the emergency provisions of Section 3.17 of this article.

(13.0) Section 3.21 CONFIDENTIALITY OF RECORDS

Unless the owner or operator expressly agrees to their publication or availability to the general public, records and information in the possession of the Commission concerning a contaminant source, which records and information relate to production or sales figures or to processes or production unique to the owner or operator and the publication of would tend to adversely affect his competitive position, as certified by him, shall be only for confidential use of the Commission on an incamera basis in the administration of this article. The Commission may, nevertheless, use these records and information in compiling analyses of summaries relating to the general condition of the outdoor atmosphere as long as the owner or operator is not identified and no information specified in the preceding sentence is revealed.

(15.0) Section 3.23 LIMITATIONS

This article does not:

1. Grant to the Commission jurisdiction or authority with respect to air contamination existing solely within commercial and industrial plants, work or shops:

2. Affect the relations between employers and employees with respect to or arising out of a condition of air contaminants or air pollution.

3. Supersede or limit the applicability of a law or ordinance relating to sanitation, industrial health or safety.

4. Preclude the right of judicial review of decisions of the Commission.

(15.0) Section 3.25 ENFORCEMENT

A. When the Director has reason to believe that a violation of this article or rule or regulation issued under this article has occurred, the Director may serve written notice upon the suspected violator. The notice shall specify the provision believed to be violated and the facts believed to constitute the violation and may include an order that necessary corrective action be taken within a reasonable time. This order shall become final unless within fifteen (15) days after the notice and order are served the person named requests in writing a hearing before the Commission, which hearing shall be held within a reasonable time. In lieu of an order, the Director may require the suspected violator to appear before the Commission for a hearing at a time and place specified in the notice and answer the charges.

B. If, after a hearing held under (A) of this section, the Commission finds that a violation has occurred, it shall affirm or modify the order previously issued or issue an appropriate order for taking corrective action. If the Commission finds that no violation has occurred, it shall rescind the previous order, if any. An order issued as part of a notice or after a hearing may prescribe the date by which the violation shall cease and may prescribe timetables for necessary action in preventing, abating or controlling emissions.

C. The Commission or the Director may make efforts to obtain voluntary compliance through warning, conference or other appropriate means.

D. In connection with a hearing held under this section, the Commission shall have power and upon application by a party to the hearing it shall have the duty to compel the attendance of witnesses and the production of evidence on behalf of all parties.

(15.0) Section 3.27 PENALTIES

A. In addition to procedures provided in Section 3.25 of this article a person who violates a provision of this article or a rule or regulation in force under it, upon conviction, is punishable by a fine not to exceed $300 and/or 30 days imprisonment. Each day of violation shall constitute a separate offense.

B. Conviction as specified in (A) of this section shall not be a bar to enforcement of this article and the rules, regulations and orders issued under it. The Commission shall have power to institute and maintain in the name of the three Boroughs all enforcement proceedings.

C. This article does not affect the right of a person to bring an action for damage or other relief because of an injury caused by air pollution.

REGISTRATION OF AIR POLLUTION SOURCES

ARTICLE V

(3.0) Section 5.01 REGISTRATION REQUIRED

All air contaminant sources within the jurisdiction of the District shall be registered with the District within 90 days of the effective date of this regulation except any of the air contaminant sources which are listed in Exhibit "A", which is attached hereto and made part hereof, as now contained or as hereafter amended.

(3.0) Section 5.03 GENERAL REQUIREMENTS FOR REGISTRATION

A. Registration of an installation shall be made by the owner or lessee of the source, or his agent, on forms furnished by the District. The owner of the source shall be responsible for registration and the correctness of the information submitted.

B. A separate registration shall be required for each source of contaminant, provided that, an owner has the option to register a process, with a detailed inventory of contaminant sources and emissions related to said process; provided further that an owner need not make a separate registration for identical units of equipment or control apparatus installed, altered or operated in an identical manner on the same premises.

C. Each registration shall be signed by the owner or lessee, or the agent for such owner or lessee.

EXHIBIT "A"

LIST OF EXCLUSIONS ADOPTED BY THE COMMISSION AND ATTACHED AS ADDENDUM

1. Air conditioning or ventilating systems not designed to remove contaminants generated by or released from equipment.

2. Blast cleaning equipment which uses a suspension of abrasive in liquid water.

3. Fuel burning equipment which has a BTU input of not more than 1,000,000 BTU per hour.

4. Fumigation vaults.

5. Insecticide spray equipment, not regularly used for hire.

6. Internal combustion engines, including gas turbine and jet engines, which can be considered mobile sources.

7. Laboratory equipment used exclusively for chemical or physical analyses.

8. Laundry driers, extractors or tumblers used exclusively for the removal of water from fabric.

9. Routing, turning, carving, cutting and drilling equipment used for metal, wood, plastics, rubber, leather or ceramics.

10. Portable equipment which is used within the District for less than 60 days.

11. Surface coating by use of aqueous solution or suspension.

12. Steam cleaning equipment used exclusively for that purpose.

13. Storage tanks, reservoirs, or containers:

    a. Of a capacity of 6,000 gallons or less used for organic solvents, diluents or thinners.

    b. Of a capacity of 40,000 gallons or less used for liquid fuels including gasoline, lubricating oil, tallow, vegetable oil or wax emulsions.

14. Vacuum cleaning systems used exclusively for industrial, commercial or residential housekeeping.

15. Vacuum producing devices used in laboratory operations, and vacuum producing devices which do not remove or convey air contamination from or to another source.

16. Vents used exclusively for:

    a. Sanitary or storm drainage systems; or

    b. Safety valves; or

    c. Storage tanks.

17. Washing or drying equipment used for products fabricated from metal or glass, if no volatile organic material is used in the process.

18. Water cooling towers and cooling ponds, except for barometric condensers.

19. Welding, brazing, or soldering equipment.

20. Marine installation not within the District for longer than 60 days per year.

21. Asphalt laying equipment.

22. Incidental fires for the disposal of trees and brush accumulated during land clearing operations.

NOTICES OF CONSTRUCTION AND ORDERS OF APPROVAL

ARTICLE VII

(3.0) Section 7.01 NOTICE OF CONSTRUCTION - WHEN REQUIRED

A. No person shall construct, install or establish a new air contaminant source, except those sources excluded in Exhibit "A" of Section 5.01 of this Regulation, without first filing with the District a "Notice of Construction and Application for Approval" on forms prepared and furnished by the District and obtaining said approval; provided that, for the purposes of this Article alterations shall be construed as construction or installation or establishment of a new contaminant source.

B. A Notice of Construction and Application for Approval shall not be required to commence on alteration of equipment or control apparatus in the event of breakdown of if delaying the alteration may endanger life or have other serious consequences. The District shall be notified in writing of the alteration on the first working day after the alteration is commenced and a Notice of Construction and Application for Approval shall be filed within fourteen (14) days after the day the alteration is commenced.

C. A separate Notice of Construction and Application for Approval shall be submitted for each unit of equipment or control apparatus, unless identical units of equipment or control apparatus are to be installed, constructed or established in an identical manner on the option to give notice and apply for approval of a process with a detailed inventory of contaminant sources and emissions related to said process.

(3.0) Section 7.03 INFORMATION REQUIRED FOR NOTICE OF CONSTRUCTION AND APPLICATION FOR APPROVAL

A. Within fifteen (15) days of its receipt of a Notice of Construction and Application for Approval for the construction, installation, or establishment of a new air contaminant source, as above described, the Director or the Commission may require that two sets of plans be submitted which show and describe in detail the following:

1. The equipment or control apparatus covered by the Notice and Application.

2. Any equipment, connected, attached to, or serving or served by the unit of equipment or control apparatus covered by the Notice and Application.

3. A plat plan, including the location and height of buildings within the area which may be adversely affected by the equipment to be installed.

4. The proposed means for the prevention or control of the emissions of air contaminants.

5. Any additional information, evidence or documentation required by the Director or the Commission to show that the proposed equipment or control apparatus will meet the emission standards.

6. Each Notice of Construction and Application for Approval shall be signed by the applicant or owner, who may be required to submit evidence of his authority.

(3.0) Section 7.05 ISSUANCE OF APPROVAL OR ORDER

A. Within thirty (30) days of receipt of Notice of Construction and Application for Approval, or the plans described in Subsection 7.03 (A), the Director or the Commission shall issue an Approval of Construction, or an order that the construction, installation or establishment of a new air contaminant source will not be in accord with the applicable emission standards as are in effect at the time of filing the Notice of Construction and Application for Approval.

B. No approval will be issued unless the information supplied as required by Subsection 7.03 (A) evidence to the Commission that:

   1. The equipment is designed and will be installed to operate without causing a violation of the emission standards.

   2. The equipment incorporates advances in the art of air pollution control developed for the kind and amount of air contaminant emitted by the equipment.

   3. Equipment having a stack or duct three feet or more in diameter will be provided with:

      a. Sampling ports of a size, number and location as the Director or the Commission may require; and

      b. Safe access to each port; and

      c. Such other reasonable sampling and testing facilities as the Director or the Commission may require.

   4. Fuel burning equipment and refuse burning equipment will achieve optimum combustion of the fuel or refuse material to be burned.

   5. All parts of the equipment can be readily cleaned or repaired.

C. If the Director or the Commission determines that the construction, installation, or establishment of a new air contaminant source will not meet the emission standards, the Director of the Commission shall, within thirty(30) days of receipt of the Notice and Application or the plans described in Subsection 7.03 (A), issue an order for the prevention of the construction, installation or establishment of the air contaminant source or sources, and:

1. The order shall be in writing;
2. The order shall set forth objections in detail with references to the emission standards that will not be met by the proposed construction, installation or establishment;
3. The order shall be signed by the Director or his authorized representative.

D. Any order issued pursuant to this section, shall become final unless, no later than fifteen (15) days after the order is served the owner or applicant petitions in writing for a reconsideration of the order with reasons for the reconsideration.

1. The Director or the Commission shall consider the petition and shall within thirty (30) days give written notice of approval or disapproval of the petition setting forth the reasons for disapproval.
2. If the petition of the owner or applicant be disapproved, the owner or applicant may petition the Commission for a hearing within fifteen (15) days of receipt of the notice of disapproval.

E. Failure to issue such an order or approval within the time prescribed herein shall be deemed a determination that the construction, installation or establishment may proceed, provided that it is in accordance with the plans, specifications or other information, if any, required to be submitted. Such failure, however, shall not relieve any person from his obligation to comply with any emission control requirement, or with any other provision of law.

(2.0) Section 7.07 NOTICE OF COMPLETION - ORDER OF VIOLATION

A. The owner or applicant shall notify the Director or the Commission of the completion of construction, installation or establishment and the date upon which operation will commence. The Director or the Commission shall, within thirty (30) days of receipt of notice of completion, inspect the construction, installation or establishment, and the Director or the Commission may issue an order of violation if he finds that the construction, installation or establishment is not in accord with the plans, specifications or other information submitted to the District, or will be in violation of the emission standards in existence at the date the order was issued.

B. Upon receipt of an Order of Violation, the owner may appeal said order in accordance with the procedures in Section 3.25 A of this regulation.

C. The issuance of approval as provided by this Article and Section 7.05, shall not relieve the owner of the obligation to comply with the emission standards as adopted by the Commission or prevent the Director or Commission from issuing such orders as provided by Section 3.25 A of this regulation.

(2.0) Section 7.09 CONDITIONAL APPROVAL

The owner or applicant may request a conditional approval for an experimental installation, construction or establishment and said approval may be issued by the Director or the Commission if it appears to the Director or the Commission from all submitted information, that the installation, construction or establishment when completed, will satisfy the District's emission standards.

EMISSION STANDARDS

ARTICLE IX

(50.1.2) Section 9.01 EMISSION OF AIR CONTAMINANT: VISUAL STANDARD

A. It shall be unlawful for any person to cause or allow the emission of any air contaminant for a period or periods aggregating more than three (3) minutes in any one hour, which is:

1. Darker in shade than that designated as No. 2 (40% density) on the Ringelmann Chart, as published by the United States Bureau of Mines; or

2. Of such opacity as to obscure an observer's view to a degree greater than does smoke described in Section 9.01 (A)(1).

3. Five (5) years after the effective date of the ordinance, all sources in the District shall comply with Section 9.01 B.

B. It shall be unlawful for any person to cause or allow the emission of any air contaminant from any equipment installed subsequent to the effective date of this regulation for a period or periods aggregating more than three (3) minutes in any one hours, which is:

1. Darker in shade than designated as No. 1 (20% density) on the Ringelmann Chart, as published by the United States Bureau of Mines; or

2. Of such opacity as to obscure an observer to a degree greater than does smoke described in Section 9.01 (B)(1).

C. The density or opacity of an air contaminant shall be measured at the point of emission, except when the point of emission cannot be readily observed, it may be measured at an observable point of the plume nearest the point of emission.

D. This section shall not apply when the presence of uncombined water is the only reason for failure of the emission to meet the requirements of this section.

E. This section shall not apply to motor vehicle or aircraft emissions.

(50.1) Section 9.03 PARTICULATE MATTER

A. It shall be unlawful for any person to cause or allow the discharge of particulate matter which becomes deposited upon the real property of others, except as follows:

1. When emissions are in compliance with Section 9.01.

2. Temporarily due to breakdown of equipment, provided that repairs are promptly made.

3. During the time for compliance with the regulation fixed by the Director or the Commission.

(50.1) Section 9.05 EMISSION OF PARTICULATE MATTER (GRAIN LOADING)

Except as otherwise provided in Section 9.07 and Section 9.09, a person shall not discharge into the atmosphere from any source, particulate matter in excess of 0.3 grain per standard cubic foot of exhaust gas.

(50.1.1) Section 9.07 EMISSION OF PARTICULATE MATTER (PROCESS WEIGHT STANDARD)

A. A person shall not cause or allow the emission of particulate matter from any source whatsoever in excess of the amount shown in Table 2.

B. A person shall not cause or allow the emission of particulate matter from any source installed subsequent to the effective date of this regulation in excess of the amount of Table 1.

C. Five (5) years after the effective date of the ordinance, all sources in the District shall comply with Section 9.07 B.

(50.0) Section 9.09 SPECIFIC CONTAMINANTS

A person shall not discharge into the atmosphere from any single source of emission whatsoever any one or more of the following contaminants, in any state or combination thereof, exceeding in concentration at the point of discharge:

A. Sulfur Compounds calculated as sulfur dioxide (SO_2) above 500 parts SO_2 per million parts of exhaust gas.

B. Combustion Contaminants: 0.3 grain per cubic foot of gas calculated to 12 percent of carbon dioxide (CO_2) at standard conditions. In measuring the combustion contaminants from incinerators used to dispose of combustible refuse by burning, the carbon dioxide (CO_2) produced by combustion of any liquid or gaseous fuel shall be excluded from the calculation to 12 percent of carbon dioxide (CO_2).

TABLE I

PROCESS WEIGHT (lb./hr.)	MAXIMUM ALLOWABLE PARTICULATE MATTER (lb./hr.)
100	0.6
300	1.2
500	1.8
700	2.2
1000	2.8
2000	4.1
3000	5.4
4000	6.5
5000	7.6
6000	8.6
7000	9.5
8000	10.4
9000	11.2
10,000	12.0
15,000	15.0
20,000	19.2
30,000	25.2
40,000	30.5
50,000	36.0
60,000 or more	40.0

TABLE 2

PROCESS WEIGHT (lb./hr.)	MAXIMUM ALLOWABLE PARTICULATE EMISSION (lb./hr.)
100	0.6
300	1.2
500	1.8
700	2.2
1,000	2.8
2,000	4.1
3,000	5.4
4,000	6.5
5,000	7.6
6,000	8.6
7,000	9.5
8,000	10.4
9,000	11.2
10,000	12.0
15,000	15.8
20,000	19.2
30,000	25.2
40,000	30.5
50,000	36.0
60,000	40.0
80,000	48.0
100,000	55.0
140,000	65.0

TABLE 2 (Cont.)

PROCESS WEIGHT (lb./hr.)	MAXIMUM ALLOWABLE PARTICULATE EMISSION (lb./hr.)
180,000	73.0
220,000	78.0
260,000	83.0
300,000	85.0
400,000	92.0
800,000	109.0
1,000,000	114.0
2,000,000	127.0
4,000,000	138.0
6,000,000	143.0
8,000,000	147.0
10,000,000	150.0

(2.0) Section 9.11 EMISSION OF AIR CONTAMINANT OR WATER VAPOR: DETRIMENT TO PERSON OR PROPERTY

A. It shall be unlawful for any person to cause or permit the emission of an air contaminant or water vapor including an air contaminant whose emission is not otherwise prohibited by this regulation, if the air contaminant or water vapor causes detriment to the health, safety, or welfare of any person, or causes damage to property or business.

B. Nothing in this regulation shall be construed to impair any cause of action or legal remedy therefore of any person, or the public for injury or damages arising from the emission of any air contaminant in such place, manner or concentration as to constitute air pollution or a common law nuisance.

(50.6) Section 9.13 ODOR AND NUISANCE CONTROL MEASURES

A. Effective control apparatus and measures shall be installed and operated to reduce odor-bearing gases or particulate matter emitted into the atmosphere to a reasonable minimum.

B. The Commission may establish reasonable requirements that the building or equipment be closed and ventilated in such a way that all the air, gases, and particulate matter are effectively treated for removal or destruction of odorous matter or other air contaminants before emission to the atmosphere.

C. Odors caused by farm animals shall not be covered by these regulations.

(2.0) Section 9.15 EMISSION OF AIR CONTAMINANT: CONCEALMENT AND MASKING RESTRICTED

A. It shall be unlawful for any person to willfully cause or permit the installation or use of any device or use of any means which, without resulting in a reduction in the total amount of air contaminant emitted, conceals an emission of air contaminant which would otherwise violate these regulations.

B. It shall be unlawful for any person to cause or permit the installation or use of any device or use of any means designed to mask the emission of an air contaminant which causes detriment to health, safety, or welfare of any person.

(50.1) Section 9.17 PREVENTING PARTICULATE MATERIAL FROM BECOMING AIRBORNE

A. It shall be unlawful for any person to cause or permit particulate matter to be handled, transported or stored without taking reasonable precautions to prevent the particulate matter from becoming airborne.

B. Within the boundaries of the Greater Anchorage Area Borough:

1 It shall be unlawful for any person to cause or permit a building or its appurtenances or a road to be construed, altered repaired, or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne.

2. It shall be unlawful for any person to cause or permit untreated open areas including but not limited to roads, parking lots or construction sites located within a private or public lot or roadway, to be maintained without taking reasonable precautions to prevent particulate matter from becoming airborne.

(7.0) (13.0) Section 9.19 REPORT OF BREAKDOWN

A. Emissions exceeding any of the limits established by this regulation as a direct result of unavoidable upset conditions or unavoidable and unforseeable breakdown of equipment or control apparatus shall not be deemed in violation provided the following requirements are met:

1. The upset or breakdown is reported to the Director or the Commission within twenty-four (24) hours.

2. The person responsible shall upon the request of the Director or the Commission submit a full report including a time table for the restoration of control, the known causes, and the preventative measures to be taken to minimize or eliminate a reoccurrence.

3. The Director or the Commission shall review the report and determine the adequacy of measures taken to control the emissions.

(51.13) Section 9.21 OUTDOOR FIRES

A. Within the boundaries of the Matanuska-Susitna Borough and the Kenai Peninsula Borough:

1. It shall be unlawful for any person to cause or allow a fire for the burning of dumps or sanitary landfills or the burning of industrial waste material which does not comply with the emission control requirements of this ordinance.

2. All other outdoor fires shall be exempted from the regulations of the Commission.

B. Within the boundaries of the Greater Anchorage Area Borough it shall be unlawful for any person to cause or allow any outdoor fire except the following:

1. Fires for pleasure, religious, ceremonial, cooking, or like social purposes.

2. Fires from flares, torches, waste gas burners, incense burner and insect pots.

3. A fire authorized by the fire chief for the disposal of dangerous materials, provided no alternate means of disposal is reasonably available.

4. A fire authorized by the fire chief for instruction in the method of fighting fires or testing of fire resistive materials and fire.

5. A fire for the disposal of trees and brush accumulated during land clearing provided that:

   a. The fire shall only be allowed in the non-urban areas of the Greater Anchorage Area Borough as defined by the Borough Planning Office.

   b. The person responsible for such fire shall obtain a proper permit for such fire and shall comply with all the laws and regulations of the Commission, the Fire Chief, and all other governmental agencies regarding such fires.

6. A fire for the disposal of household refuse in areas of the Greater Anchorage Area Borough where municipal or Public Service Commission sanctioned refuse collection service is not available.

C. It shall be prima facie evidence that the person who owns or controls property on which an outdoor fire occurs has caused or allowed said outdoor fire.

(2.0) Section 9.23 SEPARABILITY

If a provision of this regulation is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality or validity of every other provision of this regulation shall not be affected thereby.

(6.0) Section 9.25 SCHEDULE FOR COMPLIANCE

All facilities in existence on or before the effective date of this regulation and not in compliance with the regulation, shall submit in writing to the Director or the Commission, a schedule for compliance with the regulation. The schedule shall include such information as the Director or the Commission shall require to determine whether or not compliance will be achieved in a reasonable time. If accepted by the Director or the Commission, it shall be the official compliance schedule for the facility.

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CHAPTER 5 - AIR POLLUTION CONTROL

(2.0) Section 45.05.010 TITLE

This chapter shall be known as the Fairbanks North Star Borough Air Pollution Control Ordinance.

(2.0) Section 45.05.020 PURPOSE

The declared purpose of this chapter is to preserve and maintain the purity of the air to a degree that will protect human health and safety, prevent injury to plant and animal life and property, safeguard the quality of the environment, maintain safe driving and flying visibility, and preserve the quality of life of the inhabitants of the Fairbanks North Star Borough.

(1.0) Section 45.05.030 DEFINITIONS

Unless the context requires otherwise, in this chapter:

(a) "air contaminant" means any particulate matter or any vapor or odorous substance or any gas or combination thereof, except that the non-radioactive nucleides of oxygen, nitrogen or the noble gases shall not constitute an air contaminant, nor shall concentrations of water vapor and carbon dioxide less than equal to the concentration in the ambient atmosphere constitute an air contaminant;

(b) "air pollution" means the presence in the outdoor atmosphere of one or more air contaminants in such quantities, characteristics, or duration as to be injurious to human health or welfare, or animal or plant life or health of property, or would interfere with the enjoyment of life or property;

(c) "assembly" means Fairbanks North Star Borough Assembly;

(d) "borough" means Fairbanks North Star Borough;

(e) "commission" means Fairbanks North Star Borough Pollution Control Commission;

(f) "emission" means a release into the outdoor atmosphere of air contaminants;

(g) "garbage" means discarded animal or vegetable matter from a kitchen;

(h) "officer" means Pollution Control Officer of the Fairbanks North Star Borough;

(i) "open burning' means any combustion of material not completely enclosed within containing walls on all sides except for intake or charging ports and an exhaust port or flue (For the purposes of this chapter, use of a barrel with one end removed (burn barrel) for incineration constitutes "open burning". Use of a barrel stove, Franklin stove or Yukon stove does not constitute open burning);

(j) "person" means any individual, partnership, co-partnership, firm, company, public or private corporation, association, trust, estate, or any agency or board, department or bureau of the borough or the cities contained therein, or any other legal entity;

(k) "Ringelmann Chart" means a chart published by the United States Bureau of Mines used to measure the density or opacity of visible emissions of air contaminants;

(l) "temperature inversion" means an atmospheric condition in which the air temperature increases with an increase in altitude; and

(m) "untreated wood" means wood that has been modified from its natural condition only by cutting, breaking, drying or absorption of moisture (Wood or wood fiber that has been painted or artificially impregnated with volatile chemicals does not constitute untreated wood. For purposes of this chapter, plywood may be considered as untreated wood.)

(2.0) Section 45.05.040 POLLUTION CONTROL COMMISSION

There is hereby created the Fairbanks North Star Borough Pollution Control Commission, which shall consist of nine (9) voting members. Such members shall be appointed by the Borough Chairman, subject to confirmation by the Assembly.

(a) Commission Members. The Commission members shall be borough residents and, insofar as practicable, shall include:

(1) a licensed physician;

(2) a professional engineer experienced in construction and air pollution control techniques, or a scientist with professional experience in local meteorological conditions and in the measurement and classification of air contaminants;

(3) a representative of industry who is familiar with air pollution control problems;

(4) a member of a local sportsman's conservation or civic group, who by his activities in such organization has demonstrated a personal concern for environmental quality;

(5) a representative of the agricultural community who is familiar with the air pollution problems.

(6) four members at large;

(b) Ex-officio Members. The following persons may sit as ex-officio members of the Commission:

(1) the Pollution Control Officer

(2) the Borough Chairman

(3) the Borough Planning Director

(4) the Chairman of the Borough Planning Commission

(5) the Borough Attorney

(c) Chairman and Vice Chairman. The Commission shall select its Chairman and Vice Chairman from its own voting members.

(d) Terms of Office of Commission Members. The term of a Commissioner shall be three (3) years, beginning on the first day of January. Terms shall be arranged so that at least two (2) members are appointed annually.

(e) Vacancies. When vacancies among voting members in the Commission occur through resignation, death, termination of residence in the borough, or removal for cause, the Borough Chairman shall appoint a member subject to confirmation by the Assembly to serve the remainder of the unexpired term.

(f) Removal for Cause. For good cause shown, the Borough Assembly may remove a voting member of the Commission by a two-thirds vote at a public meeting. Non-attendance at four successive meetings or hearings of the Commission may constitute good cause for the purposes of this section.

(g) Regular Meetings. This Commission shall meet at least once each month. So far as practicable, regular meetings shall be held on the same day of the week and at the same location each month.

(h) Special Meetings. Special Meetings may be called upon two days notice to the members of the Commission; however, emergency meetings may be called on less than two days notice. Special meetings may be called by any two voting members, by the Commission Chairman or by the Borough Chairman.

(i) Quorum. A majority of the Commission shall constitute a quorum for the transaction of business and five affirmative votes shall be necessary to carry a question.

(j) Expenses and Salaries. No voting member of the Commission shall receive a salary for his services.

(k) Powers and Duties.

(1) The Commission shall be notified and may make recommendations for air pollution provisions in any proposed ordinance relating to building construction and/or relating to permits for building construction.

(2) The Commission shall, upon the issuance of an emergency order by the Officer pursuant to Section 45.05.100, hold a hearing within 24 hours of the issuance of the emergency order. According to the provisions of said section, the Commission may affirm, modify, or set aside the order of the Officer.

(3) The Commission may propose ordinance or amendments to ordinances for consideration by the Assembly that would serve to protect and enhance the quality of the air within the borough. Prior to the submission of proposed ordinances to the Assembly, the Commission shall hold public hearings for the purpose of receiving the testimony.

(4) The Commission may promulgate appropriate rules and regulations implementing this chapter that shall become effective after approval by the Borough Chairman and approval by the Assembly. Prior to the submission of the proposed regulations to the Assembly, the Commission shall hold public hearings for the purpose of receiving testimony.

(5) The Commission may fully investigate nuisances, health hazards and other harmful effects related to or caused by air pollution. Such investigations may be instituted by the Commission on its own motion, on information from the Officer, or upon complaints received from private persons within the borough.

(6) The Commission shall develop comprehensive plans for the prevention, abatement, and control of air pollution in the borough. Such plans may include recommendations on subjects including, but not limited to, zoning, taxation, research and public relations.

(l) Public Hearings.

(1) On those matters which require a public hearing, the Commission shall adopt such procedures as shall most effectively assure full participation by all interested persons. The time, place and agenda of the hearing shall be published in a newspaper of general circulation within the borough not less than five (5) days prior to the hearing. For the purposes of this section no hearing on any subject shall be held unless the subject has been included in the published agenda. This subsection shall not apply to emergency hearings held according to the provisions of Section 45.05.100.

(2) Any person who will be specifically affected or whose property will be specifically affected by action of the Commission at a hearing shall be given, whenever practicable:

(A) five days prior to the hearing, notice of the hearing date, time, and place;

(B) an opportunity to be heard at the hearings; and

(C) a written decision of the Commission with findings and conclusions respecting that person or his property.

(2.0) Section 45.05.050 POLLUTION CONTROL OFFICER

There is created the office of Pollution Control Officer. The Officer shall be directly responsible to the Borough Chairman for the implementation of policies and programs instituted pursuant to this chapter.

(a) Responsibilities.

(1) The Officer shall have the responsibility of investigation to further the purposes of this chapter including, but not limited to:

(A) investigation of citizen complaints;

(B) such investigation as the Commission or Borough Chairman may direct; and

(C) authority to inspect equipment, structures, and operations and to make measurements on private property at reasonable hours and with proper notice to the occupant of the premise.

(2) The Officer shall conduct such surveys and research as is necessary to assist the Commission in the drafting of regulations and ordinances.

(3) The Officer shall to the extent practicable encourage the voluntary cooperation by persons and affected groups to achieve the purposes of this chapter or regulations pursuant thereto.

(4) The Officer has the authority to issue citations to alleged violators of this chapter requiring the alleged violators to appear in a court of law.

(5) All zoning changes within the borough shall be brought to the attention of the Officer by the Borough Planning Director prior to the time notice is given for any public Planning Commission hearing. If the Officer feels that the proposed zoning change

will affect the air quality of the borough, he shall issue a report to the Planning Commission and Pollution Control Commission. The report may recommend approval, modification or disapproval of the proposed zoning change in the interest of maintaining or enhancing the air quality of the borough.

(6) The Officer shall seek voluntary cooperation of citizens, but has the authority to secure judicial search warrants for conducting routine or area inspection with regard to air pollution of any particular place, dwelling, structure, premise, or vehicle.

(2.0) Section 45.05.060 VIOLATIONS

(a) It shall be unlawful for any person to operate or maintain any structure, device, machinery, open fire, or other instrumentality that discharges any air contaminant into the atmosphere which results in the contamination of the air above public property or above the private property of another person that:

(1) causes irritation to eyes, to the respiratory tract, or any other organ system to such a degree as to be harmful to human beings; or

(2) presents a safety hazard by significantly restricting visibility for the operation of automobiles and aircraft. This subsection shall not apply when the presence of uncombined water vapor is the only reason for the failure of the emission to meet the requirements of this section.

(b) It shall be unlawful for any person to engage in the open burning of hydrocarbons or organic substances which is likely to result in the emission of dense black smoke or obnoxious vapors including, but not limited to, petroleum products, plastics, rubber, asphalt, and asphalt-impregnated materials, except as stipulated in Section 45.05.060 (d) or except as may be authorized by the Officer in a special permit issued to municipal, State or Federal agencies.

(c) It shall be unlawful for any person to engage in the open burning of garbage or other putrescible animal or vegetable matter. This section shall not apply to the disposal of refuse from a single family in areas where garbage collection services are unavailable. Nothing in this section shall be construed to limit the responsibility of compliance with the provisions of Section 45.05.060 (a).

(d) It shall be unlawful for any person to engage in the open burning of trees, grasses, slashings, brush, and stumps except by permit from the Officer or his authorized representative. This section shall not apply when burning results from land clearing operations from a land area aggregating less than ten (10) acres. The decision whether the permit will be granted or denied will be based on the location of the burning, the meteorological conditions at the time of the requested burning, the level of contaminants that may be expected to result from the burning and the benefits that would result from the burning. The Officer may also specify in the permit the manner in which the burning is to be carried out. For purposes of effecting a cleaner and more efficient fire, the permit issued by the Officer may grant an exemption to Section 45.05.060 (b).

(e) During periods in which a temperature inversion exists or is forecast to exist below an elevation of 2500 feet above sea level, and after the Officer issues a public order prohibiting all open burning, it shall be unlawful for any person to engage in open burning. For purposes of this section, the Officer shall have the discretion to issue a public order, and to designate specific regions of the borough within which the prohibition shall apply. The order shall be effective when broadcast on radio or television or upon publication in a newspaper of general circulation in the borough. The order prohibiting open burning shall be withdrawn when the inversion below 2500 feet elevation above sea level dissipates and when it is not likely to become reestablished below 2500 feet elevation above sea level within the next twenty-four (24) hours.

(2.0) Section 45.05.070 EMISSION LIMITATIONS

It shall be unlawful for any person to maintain or operate a single source of emission whatsoever that discharges into the atmosphere any contaminant darker in shade or of such opacity to obscure an observer's view to a degree equal to or greater than that designated on the Ringelmann Chart, U.S. Bureau of Mines, as specified herein.

No person shall discharge in excess of No. 1 on the Ringelmann Chart except:

(a) emission not to exceed No. 3 (on said chart) for a period aggregating not more than five minutes out of each hour nor more than forty (40) minutes in a twenty-four (24) hour period is permitted;

(b) when the presence of uncombined water vapor is the only reason for the failure of the emission to meet the limitations of this section;

(c) when a permit has been obtained from the Officer to exceed the limits of this section for purposes of plant startup (No permit shall be valid for a length of time in excess of forty-eight (48) hours nor shall a permit be granted for any single source more than four (4) times each year. The permit shall establish upper limits of emissions for the period in which the permit is in effect.);

(d) vehicular emissions not to exceed No. 2 (on said chart) for a period not to exceed five (5) seconds are permitted;

(e) hot mix asphalt plants may discharge up to Ringelmann No. 3 for a period not to exceed four (4) minutes during startup and shutdown; and

(f) smoke that results from the burning of untreated wood for purposes of cooking food or heating of a dwelling.

(2.0) Section 45.05.080 EXISTING EQUIPMENT OR DEVICES CURRENTLY IN OPERATION OR UNDER CONSTRUCTION

Any equipment or device which is in operation or under construction prior to the date of adoption of this chapter or regulations pursuant thereto, and which equipment does not meet the provisions of this chapter or regulations pursuant thereto, shall be modified in a manner to bring said equipment into compliance within three years of the effective date of this chapter or regulations pursuant thereto.

(a) The Commission may upon petition grant for good cause shown, but only after public hearing following due notice, an exemption from the provisions of this chapter and the regulations pursuant thereto, for a period of time the Commission deems necessary for the equipment to be brought into compliance with the provisions of this chapter and regulations pursuant thereto. No extension may be granted to persons who are not, at the time of filing of the petition, making efforts in good faith to bring their devices or operations into compliance with the provisions of this chapter or regulations pursuant thereto.

(b) The Commission may modify or terminate said exemption.

(5.0) Section 45.05.090 VARIANCES

(a) A persons who owns or is in control of a plant, building, structure, establishment, process or equipment may apply to the Commission for a variance from rules or regulations. The Commission may grant the variance, but only after public hearing following due notice, if it finds that:

(1) the emissions occurring or proposed to occur do not endanger human health or safety; and

(2) compliance with the rules and regulations from which variance is sought would produce serious hardship without equal or greater benefits to the public.

(b) No variance may be granted under this section until the Commission has considered the relative interests of the applicant, other owners of property likely to be affected by the emissions and the general public.

(c) A variance or its renewal, granted under (a) of this section, shall be for periods and under conditions consistent with the reasons for it and within the following limitations:

(1) if the variance is granted on the ground that there is no practicable means known or available for the adequate prevention, abatement or control of the air pollution involved, it shall be only until the necessary means for prevention, abatement or control become known and available, subject to the taking of substitute or alternate measures that the Commission may prescribe;

(2) If the variance is granted on the ground that compliance with the particular requirement from which variance is sought will necessitate the taking of measures which, because of their extent or cost must be spread over a considerable period, it shall be for a period not to exceed the reasonable time which, in opinion of the Commission, is necessary. A variance granted on this ground shall contain a timetable for taking action in an expeditious manner and shall be conditioned on adherence to the timetable; and

(3) if the variance is granted on the ground that it is justified to relieve or prevent hardship of a kind other than that provided in (c), (1), and (2) of this section, it shall be for not more than one year.

(d) A variance granted under this section may be renewed on terms and conditions and for periods which would be appropriate on initial granting of a variance. If complaint is made to the Commission on account of the variance no renewal of it shall be granted unless, after public hearing on the complaint following due notice, the Commission finds that renewal is justified. No renewal may be granted except upon application for it. This application shall be made at least 60 days before the expiration of the variance. Immediately upon receipt of an application for renewal the Commission shall give public notice of it.

(e) A variance or renewal shall not be a right of the applicant but shall be in the discretion of the Commission. However, a person adversely affected by a variance or renewal granted by the Commission may seek review de novo in the Superior Court of the State of Alaska. Judicial review of the denial of a variance or renewal may be had only on the ground that the denial was arbitrary or capricious.

(f) No variance or renewal granted under this section may be construed to prevent or limit the application of the emergency provisions of Section 45.05.100.

(8.0) Section 45.05.100 EMERGENCY PROCEDURE

If the Officer finds that a generalized condition of air pollution exists and that it creates, or is in imminent danger of creating, an emergency requiring immediate action to protect human health or safety, he shall, with the concurrence of the Borough Chairman, order the person or persons causing or contributing to the air pollution to reduce or discontinue immediately the emission of air contaminants. The order shall fix a place and time, not more than 24 hours later, for a hearing to be held before the Commission. Within 24 hours after the commencement of the hearing, and without adjournment of it, the Commission in a written decision with findings of fact and conclusion may affirm, modify or set aside the order of the Officer. A person aggrieved by a decision reached pursuant to this section by the Commission may appeal to the Assembly for review de novo.

(15.0) Section 45.05.110 INJUNCTIVE RELIEF

In the name of the borough, the Borough Attorney may with the concurrence of the Commission seek an injunction to enjoin any person who operates or maintains any structure, device, machinery, open fire or other instrumentality that discharges into the atmosphere any air contaminant which results in the contamination of the air above public property or above three or more separately-owned parcels of real property which:

(a) is offensive, obnoxious, odoriferous, or opaque to the extent that substantial reduction in the value of adjacent property occurs, or is reasonably expected to occur;

(b) renders adjacent property uninhabitable;

(c) causes detectable aggravation or exacerbation of respiratory, circulatory, or skin diseases, or other disease states of human beings;

(d) damages the health of domestic livestock or damage vegetation to such a degree as to render it unmarketable, or to cause a substantial reduction in its value, or in any other manner renders its production more costly;

(e) damages wildlife or indigeneous vegetation to such a degree as to measurably reduce the carrying capacity of the land for wildlife;

(f) impairs the value of properties, whether public or private, for recreational purposes; or

(g) causes noticeable or measurable damage to buildings, materials, paint surfaces, fabrics, and textile pigments.

(15.0) Section 45.05.120 ENFORCEMENT

(a) Fines and Punishments. Any person found in violation of the provisions of this chapter is punishable upon conviction by a fine of not more than $300 for each violation. In the case of continuing violation, each day of violation shall constitute a separate offense.

(b) Violation. For the purposes of this section, a violation is:

(1) any act or omission declared to be unlawful in this chapter;

(2) the knowing maintenance of an emission or pollution condition prohibited by this chapter;

(3) the failure of any person to comply with an order issued, or regulation promulgated pursuant to this chapter.

(c) Violation by Corporate Person. All orders hereunder directed to a corporate person shall be issued to the president of such corporation or to his duly authorized agent. In the event of prosecution under Section 45.05.120 (a), the corporate treasury and assets shall be liable for payment of fines, and the president of such corporation, or such other person who as officer or agent thereof is authorized to decide and direct compliance, shall be criminally liable thereunder.

(d) Civil Remedies. An action may be brought in the name of the borough to employ any or all of the remedies available under the statutes of the State of Alaska, the Common Law and the General Equity principles to prevent, restrain, enjoin, terminate, and punish violations of this chapter.

(e) Proceedings in Emergency. In the event of an emergency declaration under Section 45.05.100 hereof, the Officer shall, immediately after the emergency session of the Commission, issue and direct the personal service of such pleadings, orders and notices as the Commission may require. If preventative or corrective measures are not immediately taken in accordance with any emergency order of the Officer or Commission after he or they find that a generalized condition of air pollution exists affecting human health and safety, the Borough Attorney may institute proceedings in a court of competent jurisdiction for any injunctive relief to enforce this act or rules or regulations or orders pursuant thereto. Such injunctive relief may include both temporary and permanent injunctions.

(f) Remedies Cumulative with State Remedies. No provision of this section shall be construed as pre-emptive of remedies available to the State under AS 18.30.230, its successor or substitute, or other state enactment. The Borough Attorney shall notify the District Attorney for the Fourth Judicial District of all violations and alleged violations hereunder, except those alleged violations which are plainly insubstantial, and shall cooperate fully with the District Attorney in any state prosecution.

(g) Civil Remedies by Private Parties Unaffected. This chapter does not affect the right of a person to bring an action for damages or other relief, because of an injury caused by air pollution.

(14.0) Section 45.05.130 CONFIDENTIALITY OF RECORDS

Any records or other information furnished to the Officer or the Commission concerning one or more air contaminant sources, which records or information, as certified by the owner or operator, relate to production or sales figures or to processes or production unique to the owner or operator or which tend to affect adversely the competitive position of such owner or operator, shall be only for the confidential use of the Officer or the Commission in the administration of this title, unless such owner or operator shall expressly agree to their publication or availability to the general public or unless the disclosure of such information is required for the prosecution of a violation of this title or regulations thereunder. Nothing herein shall be construed to prevent the use of such records or information by the Officer or the Commission in compiling or publishing analyses or summaries relating to the general condition of the outdoor atmosphere; provided that such analyses or summaries do not identify any owner or operator or reveal any information otherwise confidential under this section.

(2.0) Section 45.05.140 SEVERABILITY

Should any section, paragraph, sentence, clause or phrase of this chapter be declared invalid or unconstitutional for any reason, the remainder of said chapter shall not be affected thereby.

FEDERALLY PROMULGATED REGULATIONS

(2.0) 52.73 General Requirements

(b) Regulation for public availability of emission data.

(1) Any person who cannot obtain emission data from the Agency responsible for making emission data available to the public, as specified in the applicable plan, concerning emissions from any source subject to emission limitations which are part of the approved plan may request that the appropriate Regional Administrator obtain and make public such data. Within 30 days after receipt of any such written request, the Regional Administrator shall require the owner or operator of any such source to submit information within 30 days on the nature and amounts of emissions from such source and any other information as may be deemed necessary by the Regional Administrator to determine whether such source is in compliance with applicable emission limitations or other control measures that are part of the applicable plan.

(2) Commencing after the initial notification by the Regional Administrator pursuant to paragraph (b) (1) of this section, the owner or operator of the source shall maintain records of the nature and amounts of emissions from such source and any other information as may be deemed necessary by the Regional Administrator to determine whether such source is in compliance with applicable emission limitations or other control measures that are part of the plan. The information recorded shall be summarized and reported to the Regional Administrator, on forms furnished by the Regional Administrator, and shall be submitted within 45 days after the end of the reporting period. Reporting periods are January 1 - June 30 and July 1 - December 31.

(3) Information recorded by the owner or operator and copies of this summarizing report submitted to the Regional Administrator shall be retained by the owner or operator for 2 years after the date on which the pertinent report is submitted.

(4) Emission data obtained from owners or operators of stationary sources will be correlated with applicable emission limitations and other control measures that are part of the applicable plan and will be available at the appropriate regional office and at other locations in the state designated by the Regional Administrator.

(10.0) 52.78 Review of New or Modified Indirect Sources

(b) Regulation for Review of New or Modified Indirect Sources

(1) All terms used in this paragraph but not specifically defined below shall have the meaning given them in 52.01 of this chapter.

(i) The term "indirect source" means a facility, building, structure, or installation which attracts or may attract mobile source activity that results in emissions of a pollutant for which there is a national standard. Such indirect sources include, but are not limited to:

(a) Highways and roads.

(b) Parking facilities.

(c) Retail, commercial and industrial facilities.

(d) Recreation, amusement, sports and entertainment facilities.

(e) Airports.

(f) Office and Government buildings.

(g) Apartment and condominium buildings.

(h) Education facilities.

(ii) The term "Administrator" means the Administrator of the Environmental Protection Agency or his designated agent.

(iii) The term "associated parking area" means a parking facility or facilities owned and/or operated in conjunction with an indirect source.

(iv) The term "aircraft operation" means an aircraft take-off or landing.

(v) The phrase "to commence construction" means to engage in a continuous program of on-site construction including site clearance, grading, dredging, or land filling specifically designed for an indirect source in preparation for the fabrication, erection, or installation of the building components of the indirect source. For the purpose of this paragraph, interruptions resulting from acts of God, strikes, litigation, or other matters beyond the control of the owner shall be disregarded in determining whether a construction or modification program is continuous.

(vi) The phrase "to commence modification" means to engage in a continuous program of on-site modification, including site clearance, grading, dredging, or land filling in preparation for specific modification of the indirect source.

(vii) The term "highway section" means the development proposal of a highway of substantial length between logical termini (major crossroads, population centers, major traffic generators, or similar major highway control elements) as normally included in a single location study or multi-year highway improvement program as set forth in 23 CFR 770.201 (38 FR 31677).

(viii) The term "highway project" means all or a portion of a highway section which would result in a specific construction contract.

(ix) The term "Standard Metropolitan Statistical Area (SMSA)" means such areas as designated by the U.S. Bureau of the Budget in the following publication: "Standard Metropolitan Statistical Area," issued in 1967, with subsequent amendments.

(2) The requirements of this paragraph are applicable to the following:

(i) In an SMSA:

(a) Any new parking facility or other new indirect source with an associated parking area, which has a new parking capacity of 1,000 cars or more; or

(b) Any modified parking facility, or any modification of an associated parking area, which increases parking capacity by 500 cars or more; or

(c) Any new highway project with an anticipated average annual daily traffic volume of 20,000 or more vehicles per day within ten years of construction; or

(d) Any modified highway project which will increase average annual daily traffic volume by 10,000 or more vehicles per day within ten years after modification.

(ii) Outside an SMSA:

(a) Any new parking facility, or other new indirect source with an associated parking area, which has a parking capacity of 2,000 cars or more; or

(b) Any modified parking facility, or any modification of an associated parking area, which increases parking capacity by 1,000 cars or more.

(iii) Any airport, the construction or general modification program of which is expected to result in the following activity within ten years of construction or modification:

(a) New airport: 50,000 or more operations per year by regularly scheduled air carriers, or use by 1,600,000 or more passengers per year.

(b) Modified airport: Increase of 50,000 or more operations per year by regularly scheduled air carriers over the existing volume of operations, or increase of 1,600,000 or more passengers per year.

(iv) Where an indirect source is constructed or modified in increments which individually are not subject to review under this paragraph, and which are not part of a program of construction or modification in planned incremental phases approved by the Administrator, all such increments commenced after December 31, 1974, or after the latest approval hereunder, whichever date is most recent, shall be added together for determining the applicability of this paragraph.

(3) No owner or operator of an indirect source subject to this paragraph shall commence construction or modification of such source after December 31, 1974, without first obtaining approval from the Administrator. Application for approval to construct or modify shall be by means prescribed by the Administrator, and shall include a copy of any draft or final environmental impact statement which has been prepared pursuant to the National Environmental Policy Act (42 U.S.C. 4321). If not included in such environmental impact statement, the Administrator may request the following information:

(i) For all indirect sources subject to this paragraph, other than highway projects:

(a) The name and address of the applicant.

(b) A map showing the location of the site of indirect source and the topography of the area.

(c) A description of the proposed use of the site, including the normal hours of operation of the facility, and the general types of activities to be operated therein.

(d) A site plan showing the location of associated parking areas, points of motor vehicle ingress and egress to and from the site and its associated parking areas, and the location and height of buildings on the site.

(e) An identification of the principal roads, highways, and intersections that will be used by motor vehicles moving to or from the indirect source.

(f) An estimate, as of the first year after the date the indirect source will be substantially complete and operational, of the average daily traffic volumes, maximum traffic volumes for one-hour and eight-hour periods, and vehicle capacities of the principal roads, highways, and intersections identified pursuant to subdivision (i) (e) of this subparagraph located within one-fourth mile of all boundaries of the site.

(g) Availability of existing and projected mass transit to service the site.

(h) Where approval is sought for indirect sources to be constructed in incremental phases, the information required by this subparagraph (3) shall be submitted for each phase of the construction project.

(i) Any additional information or documentation that the Administrator deems necessary to determine the air quality impact of the indirect source, including the submission of measured air quality data at the proposed site prior to construction or modification.

(ii) For airports:

(a) An estimate of the average number and maximum number of aircraft operations per day by type of aircraft during the first, fifth and tenth years after the date of expected completion.

(b) A description of the commercial, industrial, residential and other development that the applicant expects will occur within three miles of the perimeter of the airport within the first five and the first ten years after the date of expected completion.

(c) Expected passenger loadings at the airport.

(d) The information required under subdivisions (i) (a) through (i) of this subparagraph.

(iii) For highway projects:

(a) A description of the average and maximum traffic volumes for one, eight, and 24-hour time periods expected within 10 years of date of expected completion.

(b) An estimate of vehicle speeds for average and maximum traffic volume conditions and the vehicle capacity of the highway project.

(c) A map showing the location of the highway project, including the location of buildings along the right-of-way.

(d) A description of the general features of the highway project and associated right-of-way, including the approximate height of buildings adjacent to the highway.

(e) Any additional information or documentation that the Administrator deems necessary to determine the air quality impact of the indirect source, including the submission of measured air quality data at the proposed site prior to construction or modification.

(iv) For indirect sources other than airports and those highway projects subject to the provisions of paragraph (b) (6) (iii) of this section, the air quality monitoring requirements of paragraph (b) (3) (i) (i) of this section shall be limited to carbon monoxide, and shall be conducted for a period of not more than 14 days.

(4) (i) For indirect sources other than highway projects and airports, the Administrator shall not approve an application to construct or modify if he determines that the indirect source will:

(a) Cause a violation of the control strategy of any applicable state implementation plan; or

(b) Cause or exacerbate a violation of the national standards for carbon monoxide in any region or portion thereof.

(ii) The Administrator shall make the determination pursuant to paragraph (b) (4) (i) (b) of this section by evaluating the anticipated concentration of carbon monoxide at reasonable receptor or exposure sites which will be affected by the mobile source activity expected to be attracted by the indirect source. Such determination may be made by using traffic flow characteristic guidelines published by the Environmental Protection Agency which relate traffic demand and capacity considerations to ambient carbon monoxide impact, by use of appropriate atmospheric diffusion models (examples of which are referenced in Appendix O to Part 51 of this chapter), and/or by any other reliable analytic method. The applicant may (but need not) submit with his application, the results of an appropriate diffusion model and/or any other reliable analytic method, along with the technical data and information supporting such results. Any such results and supporting data submitted by the applicant shall be considered by the Administrator in making his determination pursuant to paragraph (b) (4) (i) (b) of this section.

(5) (i) For airports subject to this paragraph, the Administrator shall base his decision on the approval or disapproval of an application on the considerations to be published as an Appendix to this Part.

(ii) For highway projects and parking facilities specified under paragraph (b) (2) of this section which are associated with airports, the requirements and procedures specified in paragraphs (b) (4) and (6) (i) and (ii) of this section shall be met.

(6) (i) For all highway projects subject to this paragraph, the Administrator shall not approve an application to construct or modify if he determines that the indirect source will:

(a) Cause a violation of the control strategy of any applicable state implementation plan; or

(b) Cause or exacerbate a violation of the national standards for carbon monoxide in any region or portion thereof.

(ii) The determination pursuant to paragraph (b) (6) (i) (b) of this section shall be made by evaluating the anticipated concentration of carbon monoxide at reasonable receptor or exposure sites which will be affected by the mobile source activity expected on the highway for the ten year period following the expected date of completion according to the procedures specified in paragraph (b) (4) (ii) of this section.

(iii) For new highway projects subject to this paragraph with an anticipated average daily traffic volume of 50,000 or more vehicles within ten years of construction, or modifications to highway projects subject to this paragraph which will increase average daily traffic volume by 25,000 or more vehicles within ten years after modification, the Administrator's decision on the approval or disapproval of an application shall be based on the considerations to be published as an Appendix to this Part in addition to the requirements of paragraph (b) (6) (i) of this section.

(7) The determination of the air quality impact of a proposed indirect source "at reasonable receptor or exposure sites", shall mean such locations where people might reasonably be exposed for time periods consistent with the national ambient air quality standards for the pollutants specified for analysis pursuant to this paragraph.

(8) (i) Within 20 days after receipt of an application or addition thereto, the Administrator shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph (b) (8) (ii) of this section shall be the date on which all required information is received by the Administrator.

(ii) Within 30 days after receipt of a complete application, the Administrator shall:

(a) Make a preliminary determination whether the indirect source should be approved, approved with conditions in accordance with paragraphs (b) (9) or (10) of this section, or disapproved.

(b) Make available in at least one location in each region in which the proposed indirect source would be constructed, a copy of all materials submitted by the owner or operator, a copy of the Administrator's preliminary determination, and a copy or summary of other materials, if any, considered by the Administrator in making his preliminary determination; and

(c) Notify the public, by prominent advertisement in a newspaper of general circulation in each region in which the proposed indirect source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the Administrator's preliminary determination on the approvability of the indirect source.

(iii) A copy of the notice required pursuant to this subparagraph shall be sent to the applicant and to officials and agencies having cognizance over the location where the indirect source will be situated, as follows: State and local air pollution control agencies, the chief executive of the city and county; any comprehensive regional land use planning agency; and for highways, any local board or committee charged with responsibility for activities in the conduct of the urban transportation planning process (3-C process) pursuant to 23 U.S.C. 134.

(iv) Public comments submitted in writing within 30 days after the date such information is made available shall be considered by the Administrator in making his final decision on the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Administrator shall consider the applicant's response in making his final decision. All comments shall be made available for public inspection in at least one location in the region in which the indirect source would be located.

(v) The Administrator shall take final action on an application within 30 days after the close of the public comment period. The Administrator shall notify the applicant in writing of his approval, conditional approval, or denial of the application, and shall set forth his reasons for conditional approval or denial. Such notification shall be made available for public inspection in at least one location in the region in which the indirect source would be located.

(vi) The Administrator may extend each of the time periods specified in paragraphs (b) (8) (ii), (iv), or (v) of this section by no more than 30 days, or such other period as agreed to by the applicant and the Administrator.

(9) (i) Whenever an indirect source as proposed by an owner or operator's application would not be permitted to be constructed for failure to meet the tests set forth pursuant to paragraphs (b) (4) (i), (b) (5) (i), or (b) (6) (i) and (iii) of this section, the Administrator may impose reasonable conditions on an approval related to the air quality aspects of the proposed indirect source so that such source, if constructed or modified in accordance with such conditions, could meet the tests set forth pursuant to paragraphs (b) (4) (i), (b) (5) (i), or (b) (6) (i) and (iii) of this section. Such conditions may include, but not be limited to:

(a) Binding commitments to roadway improvements or additional mass transit facilities to serve the indirect source secured by the owner or operator from governmental agencies having jurisdiction thereof;

(b) Binding commitments by the owner or operator to specific programs for mass transit incentives for employees and patrons of the source; and

(c) Binding commitments by the owner or operator to construct, modify, or operate the indirect source in such a manner as may be necessary to achieve the traffic flow characteristics published by the Environmental Protection Agency pursuant to paragraph (b) (4) (ii) of this section.

(ii) The Administrator may specify that any items of information provided in an application for approval related to the operation of an indirect source which may affect the source's air quality impact shall be considered permit conditions.

(10) Notwithstanding the provisions relating to modified indirect sources contained in paragraph (b) (2) of this section, the Administrator may condition any approval by reducing the extent to which the indirect source may be further modified without resubmission for approval under this paragraph.

(11) Any owner or operator who fails to construct an indirect source in accordance with the application as approved by the Administrator; any owner or operator who fails to construct and operate an indirect source in accordance with conditions imposed by the Administrator under paragraph (b) (9) of this section; any owner or operator who modifies an indirect source in violation of conditions imposed by the Administrator under paragraph (b) (10) of this section; or any owner or operator of an indirect source subject to this paragraph who commences construction or modification thereof after December 31, 1974, without applying for and receiving approval hereunder, shall be subject to the penalties specified under section 113 of the Act and shall be considered in violation of an emission standard or limitation under section 304 of the Act. Subsequent modification to an approved indirect source may be made without applying for permission pursuant to this paragraph only where such modification would not violate any condition imposed pursuant to paragraphs (b) (9) and (10) of this section and would not be subject to the modification criteria set forth in paragraph (b) (2) of this section.

(12) Approval to construct or modify shall become invalid if construction or modification is not commenced within 24 months after receipt of such approval. The Administrator may extend such time period upon satisfactory showing that an extension is justified. The applicant may apply for such an extension at the time of initial application or at any time thereafter.

(13) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with the control strategy and all local, State and Federal regulations which are part of the applicable State implementation plan.

(14) Where the Administrator delegates the responsibility for implementing the procedures for conducting indirect source review pursuant to this paragraph to any agency, other than a regional office of the Environmental Protection Agency, the following provisions shall apply:

(i) Where the agency designated is not an air pollution control agency, such agency shall consult the appropriate State or local air pollution control agency prior to making any determination required by paragraphs (b) (4), (5), or (6) of this section. Similarly, where the agency designated does not have continuing responsibilities for land use planning, such agency shall consult with the appropriate State or local land use and transportation planning agency prior to making any determination required by paragraph (b) (9) of this section.

(ii) The Administrator of the Environmental Protection Agency shall conduct the indirect source review pursuant to this paragraph for any indirect source owned or operated by the United States Government.

(iii) A copy of the notice required pursuant to paragraph (b) (8) (ii) (c) of this section shall be sent to the Administrator through the appropriate Regional Office.

(15) In any area in which a "management of parking supply" regulation which has been promulgated by the Administrator is in effect, indirect sources which are subject to review under the terms of such a regulation shall not be required to seek review under this paragraph but instead shall be required to seek review pursuant to such management of parking supply regulation. For purposes of this paragraph, a "management of parking supply" regulation shall be any regulation promulgated by the Administrator as part of a transportation control plan pursuant to the Clean Air Act which requires that any new or modified facility containing a given number of parking spaces shall receive a permit or other prior approval, issuance of which is to be conditioned on air quality considerations.

(16) Notwithstanding any of the foregoing provisions to the contrary, the operation of this paragraph is hereby suspended pending further notice. No facility which commences construction prior to the expiration of the sixth month after the operation of this paragraph is reinstated (as to that type of facility) shall be subject to this paragraph.

(37 FR 10846, May 31, 1972 as amended at 40 FR 28065, July 3, 1975; 40 FR 40160, Sept. 2, 1975)

(6.0) 52.84 Compliance Schedules

(d) Federal compliance schedules.

(1) Except as provided in paragraph (d) (9) of this section, the owner or operator of any incinerator subject to the following emission-limiting regulation shall comply with the compliance schedule in subparagraph (2) of this paragraph: Alaska Administrative Code, Title 18, 50.040 (appendix 1, section III of the Alaska Implementation Plan).

Source	Location	Regulation involved	Date of Adoption
Alaska Lumber & Pulp Co.	Sitka	18AAC50.060(a)(1)(2)	June 18, 1973
Ketchikan Pulp Co.	Ketchikan	do	do

(2) Compliance schedule for incinerators, defined as any furnace used in the process of burning solid waste for the primary purpose of reducing the volume of the waste by removing combustible matter:

(i) Within 30 days after promulgation of the compliance schedule, submit to the Administrator a final control plan, which describes at a minimum the steps which will be taken by the source to achieve compliance with the applicable regulations.

(ii) October 29, 1973 - Negotiate and sign all necessary contracts for emission control systems or process modifications, or issue orders for the purchase of component parts to accomplish emission control or process modification.

(iii) August 5, 1974 - Complete on-site construction or installation of emission control equipment or process modification.

(iv) September 2, 1974 - Achieve compliance with applicable regulations, and certify such compliance to the Administrator.

(v) If a performance test is necessary for a determination as to whether compliance has been achieved, such a test must be completed by September 2, 1974. Ten days prior to such a test, notice must be given to the Administrator to afford him the opportunity to have an observer present.

(vi) Within five days after the deadline for completing increments in subdivisions (ii) and (iii) in this subparagraph, certify to the Administrator whether the increment has been met.

(3) Except as provided in subparagraph (9) of this paragraph, the owner or operator of any pulp mill subject to the following emission-limiting regulation and permit regulation in the Alaska Implementation Plan shall comply with the applicable compliance schedule in subparagraph (4), (5), or (6) of this paragraph; Alaska Administrative Code, Title 18, 50.060 (a) (1) (Sulfur oxides) and (2) (Particulate matter), 50.120 (a) (permits) (appendix III, 1 of the Alaska Implementation Plan).

(4) Any owner or operator of a recovery system or other source within a pulpmill subject to the sulfur oxide emission limitation of subparagraph (3) who elects to utilize a process modification not requiring installation of additional control equipment shall be subject to the following compliance schedule:

(i) October 1, 1973 - Notify the Administrator of the intent to utilize a process modification.

(ii) November 30, 1973 - Negotiate contract for achieving desired modification.

(iii) July 1, 1974 - Achieve compliance with the applicable regulations and certify such compliance to the Administrator.

(iv) If a performance test is necessary for a determination as to whether compliance has been achieved, such a test must be completed by July 1, 1974. Ten days prior to such a test, notice must be given to the Administrator to afford him the opportunity to have an observer present.

(5) Any owner or operator of a recovery system or other source within a pulp mill subject to the sulfur oxide emission limitation of subparagraph (3) who elects to utilize a control system requiring installation of additional control equipment shall be subject to the following compliance schedule:

(i) October 1, 1973 - Submit to the Administrator a final control plan which describes at a minimum the steps which will be taken by the source to achieve compliance with the applicable regulations.

(ii) January 20, 1974 - Negotiate and sign all necessary contracts for emission control systems, or issue orders for the purchase of component parts to accomplish emission control.

(iii) December 31, 1974 - Complete on-site construction or installation of emission control equipment.

(iv) July 1, 1975 - Achieve compliance with applicable regulations.

(v) If a performance test is necessary for a determination as to whether compliance has been achieved, such a test must be completed by July 1, 1975. Ten days prior to such a test, notice must be given to the Administrator to afford him the opportunity to have an observer present.

(vi) Five days after the deadline for completing increments in subdivisions (ii), (iii), and (iv) in this subparagraph, certify to the Administrator whether the increment has been met.

(6) Compliance schedule for recovery system particulate matter emissions:

(i) January 1, 1974 - Submit to the Administrator a final control plan which describes at a minimum the steps which will be taken by the source to achieve compliance with the applicable regulations.

(ii) March 1, 1974 - Negotiate and sign all necessary contracts for emission control systems or process modifications, or issue orders for the purchase of component parts to accomplish emission control or process modification.

(iii) April 1, 1975 - Complete onsite construction or installation of emission control equipment or process modification.

(iv) July 1, 1975 - Achieve compliance with the applicable regulations and certify such compliance to the Administrator.

(v) If a performance test is necessary for a determination as to whether compliance has been achieved, such a test must be completed by July 1, 1975. Ten days prior to such a test, notice must be given to the Administrator to afford him the opportunity to have an observer present.

(vi) Within five days after the deadline for completing increments in paragraphs (b) (6) (ii) and (iii) of this section, certify to the Administrator whether the increment has been met.

(7) Except as provided in subparagraph (9) of this paragraph, the owner or operator of any industrial process or fuel-burning equipment subject to the following emission-limiting regulation and permit regulation in the Alaska Implementation Plan shall comply with the compliance schedule in subparagraph (8) of this paragraph: Alaska Administrative Code, Title 18, 50.050 (industrial processes and fuel-burning equipment) and 50.120 (a) and (e) (permits), (appendix, section III, 1 of Alaska Implementation Plan).

(8) Compliance schedule for industrial process for fuel-burning equipment:

(i) Within 30 days after promulgation of the compliance schedule submit to the Administrator a final control plan, which describes at a minimum the steps which will be taken by the source to achieve compliance with the applicable regulations.

(ii) December 18, 1973 - Negotiate and sign all necessary contracts for emission control systems or process modifications, or issue orders for the purchase of component parts to accomplish emission control or process modification.

(iii) May 31, 1975 - Complete onsite construction or installation of emission control equipment or process modification.

(iv) July 1, 1975 - Achieve compliance with the applicable regulations and certify such compliance to the Administrator.

(v) If a performance test is necessary for a determination as to whether compliance has been achieved, such a test must be completed by July 1, 1975. Ten days prior to such a test, notice must be given to the Administrator to afford him the opportunity to have an observer present.

(vi) Within five days after the deadline for completing increments in subdivisions (ii) and(iii) in this subparagraph, certify to the Administrator whether the increment has been met.

(9) (i) None of the above subparagraphs shall apply to a source which is presently in compliance with applicable regulations and which has certified such compliance to the Administrator by October 1, 1973. The Administrator may request whatever supporting information he considers necessary for proper certification.

(ii) Any compliance schedule adopted by the State and approved by the Administrator shall satisfy the requirements of this paragraph for the affected source.

(iii) Any owner or operator subject to a compliance schedule in this paragraph may submit to the Administrator no later than October 1, 1973, a proposed alternative compliance schedule. No such compliance schedule may provide for final compliance after the final compliance date in the applicable compliance schedule of this paragraph. If promulgated by the Administrator, such schedule shall satisfy the requirements of this paragraph for the affected source.

(10) Nothing in this paragraph shall preclude the Administrator from promulgating a separate schedule for any source to which the application of a compliance schedule in this paragraph fails to satisfy the requirements of 51.15 (b) and (c) of this chapter.

(38 FR 16145, June 20, 1973, as amended at 38 FR 22738, Aug. 23, 1973; 38 FR 24342, Sept. 7, 1973; 39 FR 20061, June 6, 1974; 41 FR 49636, Nov. 10, 1976; 42 FR 8376, Feb. 10, 1977)

(12.0) 52.85 Traffic Flow Improvements

(a) Definitions:

(1) "Fairbanks central business district" means the area bounded by the Chena River on the north; Dunkle Street on the east; Fifth Avenue, Cushman Street, and Seventh Avenue on the south; and Barnette Street, Third Avenue, and Wickersham Street on the west. Streets forming the boundaries shall be part of the central business district.

(b) This regulation is applicable in the City of Fairbanks in the State of Alaska.

(c) By January 1, 1974, the City of Fairbanks shall submit to the Administrator a detailed compliance schedule indicating traffic flow improvements to be undertaken and the dates of their expected achievement. All improvements must be completed by May 31, 1975. Such improvements shall include, but are not limited to, the following measures detailed in the Wilbur Smith and Associates, May 1971, FMATS-TOPICS study:

(1) Nobel Street-Lacey Street converted to one-way operation, with Nobel Street northbound from the proposed junction with Lacey Street to Wendell Avenue and Lacey Street southbound from Wendell Avenue to its intersection with Novel Street at Twelfth Avenue.

(2) Barnette Street-Wickersham Street converted to one-way operation, with Barnette Street northbound from Ninth Avenue to First Avenue and Wickersham Street southbound from First Avenue and Barnette.

(3) Signalization of intersections of:

(i) First Avenue and Barnette Street

(ii) First Avenue and Wickersham Street

(iii) Third Avenue and Barnette Street

(iv) Third Avenue and Lacey Street

(v) Fifth Avenue and Lacey Street

(vi) Fifth Avenue and Nobel Street

(4) Interconnection of the signal system within the Fairbanks central business district to establish a coordinated relationship among each of the signals that will closely coincide with the

traffic demands as they fluctuate throughout the day.

(d) The City may omit or replace traffic flow improvement measures indicated in these studies only with the prior approval of the Administrator.

(12.0) 52.86 Management of Parking Supply

(a) Definitions:

(1) "Parking facility" (also called "facility") means a lot, garage building or structure, or combination or portion thereof, in or on which motor vehicles are temporarily parked.

(2) "Vehicle trip" means a single movement by a motor vehicle that originates or terminates at a parking facility.

(3) "Construction" means fabrication, erection, or installation of a parking facility, or any conversion of land, buildings, or structures, or portions thereof, for use as a facility.

(4) "Modification" means any change to a parking facility that increases or may increase the motor vehicle capacity of, or the motor vehicle activity associated with, such parking facility.

(5) "Commence" means to undertake a continuous program of onsite construction or modification.

(6) "Parking space" means any area or space below, above, or at ground level, open or enclosed, on-street or off-street, that is used for parking one motor vehicle at any time.

(7) "Basin" means the area commencing at the initial point, 1097 Birch Hill, Fairbanks, Alaska; thence north 56 degrees 14 minutes west, a distance of 58,017 feet, more or less, to the VABM 1987 Moose, the true point of beginning; thence north 86 degrees east, a distance of 215,349 feet, more or less, to VABM 3010 Last; thence south 5 degrees 26 minutes west a distance of 175,160 feet, more or less, to VABM 1831 Canyon; thence south 85 degrees 55 minutes west, a distance of 229,914 feet, more or less, to VABM 971 Wood River Butte West; thence north 13 degrees 42 minutes west, a distance of 169,688 feet, more or less, to VABM 2005 Standard; thence north 81 degrees 17 minutes east, a distance of 72,092 feet, more or less, to VABM 1978 Moose, the true point of beginning.

(b) This regulation is applicable in the City of Fairbanks, the Fairbanks North Star Borough, and the Basin in the State of Alaska.

(c) The requirements of this section are applicable to the following parking facilities in the areas specified in paragraph (b) of this section, the construction or modification of which is commenced after January 1, 1975:

(1) Any new parking facility with parking capacity for 10 or more motor vehicles;

(2) Any parking facility that will be modified to increase parking capacity by 10 or more motor vehicles; and

(3) Any parking facility constructed or modified in increments which individually are not subject to review under this section, but which, when all such increments occurring since August 15, 1973, are added together, would as a total subject the facility to review under this section.

(d) No person shall commence construction or modification of any facility subject to this section without first obtaining written approval from the Administrator; provided, that this paragraph shall not apply to any construction or modification for which a general construction contract was finally executed by all appropriate parties on or before January 1, 1975.

(e) No approval to construct or modify a facility shall be granted unless the applicant shows to the satisfaction of the Administration:

(1) The design or operation of the facility will not cause a violation of the control strategy that is part of the applicable implementation plan, and will be consistent with the plan's VMT reduction goals;

(2) The emissions resulting from the design or operation of the facility will not prevent or interfere with the attainment or maintenance of any national ambient air quality standard at any time within 10 years from the date of application; and

(3) The facility shall either maintain a temperature of at least 0°F at all times in which vehicles are parked within it, or provide outlets for engine heaters for all parking spaces within it.

(f) All applications for approval under this section shall include the following information:

(1) Name and address of the applicant.

(2) Location and description of the parking facility.

(3) A proposed construction schedule.

(4) The normal hours of operation of the facility and the enterprises and activities that it serves.

(5) The total motor vehicle capacity before and after the construction or modification of the facility.

(g) The Administrator may require an application for a facility of between 10 and 99 spaces to include the information required by paragraphs (h) (1) through (7) of this section.

(h) All applications under this section for new parking facilities with parking capacity for 100 or more vehicles, or for any modification which, either individually or together with other modifications since January 1, 1975, will increase capacity by that amount, shall, in addition to that information required by paragraph (f) of this section, include the following information unless the applicant has received a waiver from the provisions of this paragraph from the Administrator:

(1) The number of people using or engaging in any enterprises or activities that the facility will serve on a daily basis and a peak hour basis.

(2) A projection of the geographic areas in the community from which people and motor vehicles will be drawn to the facility. Such projection shall include data concerning the availability of mass transit from such areas.

(3) An estimate of the average and peak hour vehicle trip generation rates, before and after construction or modification of the facility.

(4) An estimate of the effect of the facility on traffic pattern and flow.

(5) An estimate of the effect of the facility on total VMT for the air quality control region.

(6) An analysis of the effect of the facility on site and regional air quality, including a showing that the facility will be compatible with the applicable implementation plan, and that the facility will not cause any national air quality standard to be exceeded within 10 years from date of application. The Administrator may prescribe a standardized screening technique to be used in analyzing the effect of the facility on ambient air quality.

(7) Additional information, plans, specifications, or documents required by the Administrator.

required by the Administrator.

(38 FR 32659, Nov. 27, 1973, as amended at 39 FR 1849, Jan. 15, 1974)

NOTE: The provisions of 52.86 were suspended indefinitely at 40 FR 2586, January 14, 1975.

(12.0) 52.87 Idling Limitations

(a) Definition:

(1) "Idling" means the operation of a motor vehicle engine while not in the process of moving from one place to another.

(2) "Parking facility" (also called "facility") means a lot, garage, building or structure, or combination or portion thereof, in or on which motor vehicles are temporarily parked.

(b) This regulation is applicable in the City of Fairbanks in the State of Alaska.

(c) No later than February 15, 1974, the City of Fairbanks shall prohibit the idling of all motor vehicles within the City unless attended by a licensed driver, while parked or operated on streets or highways or in publicly owned parking facilities or privately owned facilities to which the public has access.

(d) No later than February 15, 1974, no person shall cause, permit, or allow the idling of any motor vehicle where prohibited pursuant to paragraph (c) of this section.

(e) Each owner or operator of a parking facility within the City of Fairbanks shall prominently display signs in each such facility warning that the limitations of this section will be strictly enforced.

(f) No later than January 1, 1974, the City of Fairbanks shall submit a detailed compliance schedule showing the steps necessary to carry out the restrictions contained in paragraph (c) of this section. Such statement shall include:

(1) Identification of necessary authority to assure enforceability, including a statement of present authority and regulations, if available, or, if needed, drafts of proposed legislation, ordinances, or regulations.

(2) Designation of agencies responsible for enforcing the prohibition.

(3) A program for enforcement of the idling restrictions including, but not limited to, towing away those vehicles idling in violation of the prohibition and subjecting the owner and/or operator of such a vehicle to a fine up to $100.

(g) No later than February 1, 1974, the City of Fairbanks shall submit legally adopted regulations sufficient to enforce all of the provisions of this section.

(12.0) 52.88 Inspection/Maintenance Program

(a) Definitions:

(1) "Inspection/maintenance program" means a program for reducing emissions from in-use gasoline powered vehicles through identifying vehicles that need emission control related maintenance and requiring that such maintenance be performed.

(2) "Light-duty vehicle" means a gasoline powered motor vehicle rated at 6,000 lb gross vehicle weight (GVW) or less.

(3) "Medium-duty vehicle" means a gasoline powered motor vehicle rated at more than 6,000 lb GVW and less than 10,000 lb GVW.

(4) "State" means the State of Alaska and, if the Governor so designates, the Fairbanks North Star Borough.

(5) All other terms used in this section that are defined in Part 51, Appendix N, of this chapter are used herein with the meanings so defined.

(b) This regulation is applicable to light and medium duty vehicles in the City of Fairbanks and the Fairbanks North Star Borough within the Northern Alaska Intrastate Air Quality Control Region in the State of Alaska.

(c) The State of Alaska shall establish an inspection/maintenance program applicable to all light duty and medium duty vehicles registered in the area defined in paragraph (b) of this section that operate on public streets or highways over which it has ownership or control. The State may exempt any class or category of vehicles that the State finds are rarely used on public streets or highways (such as classic or antique vehicles). No later than April 1, 1974, the State shall submit legally adopted regulations to the Administrator establishing such a program. The regulation shall include:

(1) Provisions for inspection of all light-duty and medium-duty motor vehicles at periodic intervals no more than 1 year apart by means of an idle-mode emission test.

(2) Provisions for inspection failure criteria consistent with the failure of 50 percent of the vehicles in the first inspection cycle.

(3) Provisions to ensure that failed vehicles receive maintenance to achieve compliance with the inspection standards. These shall include sanctions against individual owners and repair facilities; retest of failed vehicles following maintenance; use of a certification program to ensure that repair facilities performing the required maintenance have the necessary equipment, parts, and knowledgeable operators to perform the tasks satisfactorily; and use of such other measures as may be necessary or appropriate.

(4) A program of enforcement to ensure that vehicles are not intentionally readjusted or modified subsequent to the inspection and/or maintenance in such a way as would cause them to no longer comply with the inspection standards. This enforcement program might include spot checks of idle adjustments and/or a suitable type of physical tagging. This program shall include appropriate penalties for violation.

(5) Provisions for beginning the first inspection cycle by August 1, 1975, and completing it by August 1, 1976.

(6) Designation of an agency or agencies responsible for conducting, overseeing, and enforcing the inspection/maintenance program.

(d) After August 1, 1976, the State shall not register or allow to operate on public streets or highways any light or medium duty vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section. This shall not apply to the initial registration of a new motor vehicle.

(e) After August 1, 1976, no owner of a light or medium duty vehicle shall operate or allow the operation of such vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (c) of this section. This shall not apply to the initial registration of a new motor vehicle.

(f) The State of Alaska shall submit, no later than February 1, 1974, a detailed compliance schedule showing the steps it will take to establish and enforce an inspection and maintenance program pursuant to paragraph (c) of this section including:

(1) The text of needed statutory proposals and of regulations that it will propose for adoption.

(2) The date by which the State will recommend needed legislation to the State legislature.

(3) The date by which necessary equipment will be ordered.

(4) A signed statement from the Governor or his designee identifying the sources and amounts of funds for the program. If funds cannot legally be obligated under existing statutory authority, the text of needed legislation shall be submitted.

(12.0) 52.89 Air Bleed to Intake Manifold Retrofit

(a) Definitions:

(1) "Air bleed to intake manifold retrofit" means a system or device (such as a modification to the engine's carburetor) that results in engine operation at an increased air-fuel ratio so as to achieve reduction in exhaust emissions of hydrocarbon and carbon monoxide from 1967 and earlier light duty vehicles of at least 21 and 58 percent, respectively, and from 1973 and earlier medium duty vehicles of at least 15 and 30 percent respectively.

(2) "Light duty vehicle" means a gasoline-powered motor vehicle rated at 6,000 lb gross vehicle weight (GVW) or less.

(3) "Medium duty vehicle" means a gasoline-powered motor vehicle rated at more than 6,000 lb GVW and less than 10,000 lb GVW.

(4) All other terms used in this section that are defined in Part 51, Appendix N, of this chapter are used herein with meanings so defined.

(b) This section is applicable to light and medium duty vehicles in the City of Fairbanks and the Fairbanks North Star Borough within the Northern Alaska Intrastate Air Quality Control Region in the State of Alaska.

(c) The State of Alaska shall establish a retrofit program to ensure that on or before August 1, 1976, all light duty vehicles of model years prior to 1968, and medium duty vehicles of model years prior to 1974, registered in the area defined in paragraph (b) of this section, are equipped with an appropriate air bleed to intake manifold device. No later than April 1, 1975, the State of Alaska shall submit to the Administrator a detailed compliance schedule showing the steps it will take to establish and enforce a retrofit program pursuant to this section, including the text of statutory proposals, regulations, and enforcement procedures that the State proposes for adoption. The compliance schedule shall also include a date by which the State shall evaluate and approve devices for use in this program. Such date shall be no later than June 1, 1975.

(d) No later than May 1, 1975, the State shall submit legally adopted regulations to the Administrator establishing such a program. The regulation shall include:

(1) Designation of an agency responsible for evaluating and approving such devices for use on vehicles subject to this section.

(2) Designation of an agency responsible for ensuring that the provisions of paragraph (d) (3) of this section are enforced.

(3) Provisions for beginning the installation of the air bleed devices by August 1, 1975, and completing the installation of the devices on all vehicles subject to this section no later than August 1, 1976.

(4) A provision that starting no later than August 1, 1976, no vehicle for which retrofit is required under this section shall pass the annual emission tests provided for by 52.88 unless it has first been equipped with an approved air bleed to intake manifold device, which the test has shown to be installed and operating correctly. The regulations shall include test procedures and failure criteria for implementing this provision.

(5) Methods and procedures for ensuring that those installing the retrofit devices have the training and ability to perform the needed tasks satisfactorily and have an adequate supply of retrofit components.

(e) After August 1, 1976, the State shall not register or allow to operate on its streets or highways any gasoline-powered vehicle that does not comply with the applicable standards and procedures adopted pursuant to paragraph (d) of this section.

(f) After August 1, 1976, no owner of a vehicle subject to this section shall operate or allow the operation of any such vehicle that does not comply with the applicable standards and procedures implementing this section.

(12.0) 52.90 Oxidizing Catalyst Retrofit

(a) Definitions:

(1) "Oxidizing catalyst" means a device installed in the exhaust system of the vehicle that utilizes a catalyst and, if necessary, an air pump to reduce emissions of hydrocarbons and carbon monoxide by 50 percent from that vehicle.

(2) "Light duty vehicle" means a gasoline-powered motor vehicle rated at 6,000 lb gross vehicle weight (GVW) or less.

(3) All other terms used in this section that are defined in Part 51 Appendix N, of this chapter, are used herein with the meanings so defined.

(b) This section is applicable in the City of Fairbanks and the Fairbanks North Star Borough within the Northern Alaska Intrastate Air Quality Control Region in the State of Alaska.

(c) The State of Alaska shall establish a retrofit program to ensure that on or before May 31, 1977, light duty vehicles of model years 1968 through 1974 that are able to operate on 91 RON gasoline and that are subject to registration in the areas defined in paragraph (b) of this section are equipped with an appropriate oxidizing catalyst retrofit device. No later than April 1, 1975, the State of Alaska shall submit a detailed compliance schedule showing the steps it will take to establish and enforce a retrofit program pursuant to paragraph (d) of this section, including the text of needed statutory proposals, regulations, and enforcement procedures that the State proposes for adoption. The compliance schedule shall also include a date by which the State shall evaluate and approve devices for use in this program. Such date shall be no later than June 1, 1975.

(d) No later than May 1, 1975, the State shall submit legally adopted regulations to the Administrator establishing such a program. The regulations shall include:

(1) Designation of an agency responsible for evaluating and approving such devices for use of vehicles subject to this section.

(2) Designation of an agency responsible for ensuring that provisions of paragraph (d) (3) of this section are enforced.

(3) Provisions for beginning the installation of the oxidizing catalytic converter on those light duty vehicles of 1968-1974 model years that operate on 91 RON (research octane number) gasoline and completing the installation of the devices on all vehicles subject to this section no later than May 31, 1977.

(4) A provision that starting no later than May 31, 1977, no vehicle for which retrofit is required under this section shall pass the annual emission tests provided for by 52.88 unless it has been equipped with an approved oxidizing device, which the test has shown to be installed and operating correctly. The regulations shall include test procedures and failure criteria for implementing this provision.

(5) Methods and procedures for ensuring that those installing the retrofits have the training and ability to perform the needed tasks satisfactorily and have an adequate supply of retrofit components.

(e) After May 31, 1977, the State shall not register or allow to operate on its streets or highways any light duty vehicle subject to this section that does not comply with applicable standards and procedures adopted pursuant to paragraph (d) of this section.

(f) After May 31, 1977, no owner of a vehicle subjects to this section shall operate or allow the operation of any such vehicle that does not comply with the applicable standards and procedures implementing this section.

(12.0) 52.91 Exhaust Gas Recirculation-Air Bleed Retrofit

(a) Definitions:

(1) "Exhaust gas recirculation (EGR)-air bleed" means a system or device (such as modification of the engine's carburetor or positive crankcase ventilation system) that results in engine operation at an increased air-fuel ratio so as to achieve reductions in exhaust emissions of hydrocarbons and carbon monoxide of 25 percent and 40 percent respectively, from light duty vehicles of model years 1968-1970.

(2) "Light duty vehicle" means a gasoline-powered motor vehicle rated at 6,000 lb gross vehicle weight (GVW) or less.

(3) All other terms used in this section that are defined in Part 51, Appendix N, of this chapter are used herein with the meanings so defined.

(b) This section is applicable in the City of Fairbanks and the Fairbanks North Star Borough within the Northern Alaska Intrastate Air Quality Control Region in the State of Alaska.

(c) The State of Alaska shall establish a retrofit program to ensure that on or before August 1, 1976, all gasoline-powered, light duty vehicles of model years 1968-1970 inclusive, operated on public streets and highways in the areas defined in paragraph (b) of this section, are equipped with an appropriate EGR-air bleed device. No later than April 1, 1975, the State of Alaska shall submit to the Administrator a detailed compliance schedule showing the steps it will take to establish and enforce a retrofit program pursuant to this section, including the text of statutory proposals, regulations and enforcement procedures that the State proposes for adoption. The compliance schedule shall also include a date by which the State shall evaluate and approve devices for use in this program. Such date shall be no later than June 1, 1975.

(d) No later than May 1, 1975, the State shall submit legally adopted regulations to the Administrator establishing such a program. The regulations shall include:

(1) Designation of an agency responsible for evaluating and approving such devices for use on vehicles subject to this section.

(2) Designation of any agency responsible for ensuring that the provisions of paragraph (d) (3) of this section are enforced.

(3) Provisions for beginning the installation of the EGR-air bleed on all vehicles subject to this section no later than August 1, 1976.

(4) A provision that starting no later than August 1, 1976, no vehicle for which retrofit is required under this section passes the annual emission tests provided for by 52.88 unless it has been first equipped with an approved EGR-air bleed device, which the test has shown to be installed and operating correctly. The regulations shall include test procedures and failure criteria for implementing this provision.

(5) Methods and procedures for ensuring that those installing the retrofit devices have the training and ability to perform the needed tasks satisfactorily and have an adequate supply of retrofit components.

(e) After August 1, 1976, the State shall not register or allow to operate on its streets or highways any gasoline-powered, light duty vehicle subject to this section that does not comply with the applicable standards and procedures adopted pursuant to paragraph (d) of this section.

(f) After August 1, 1976, no owner of a vehicle subject to this section shall operate or allow the operation of any such vehicle that does not comply with the applicable standards and procedures implementing this section.

(12.0) 52.92 Central Business District Access Limitation

(a) Definitions:

(1) "Fairbanks central business district" means the area bounded by the Chena River on the north; Dunkle Street on the east; Fifth Avenue, Cushman Street and Seventh Avenue on the south; and Barnette Street, Third Avenue and Wickersham Street on the west. Streets forming the boundaries shall be part of the central business district.

(b) This section is applicable in the City of Fairbanks in the State of Alaska.

(c) Effective on the date of promulgation of this section, the State of Alaska shall neither construct any highway (including the Steese Highway Cutoff) nor permit the construction of any highway in such a way that there are interchanges providing access into the Fairbanks central business district unless the State demonstrates, to the satisfaction of the Administrator, that such interchanges or exit ramps are located in such a way as to assure no interference with attainment or maintenance of any national ambient air quality standard at any time within 10 years from the date of completion of such interchange or exit ramp.

(d) No later than January 1, 1974, the State of Alaska shall report to the Administrator the status of the Steese Highway Cutoff, which report shall include timetables for finalization of the design, acquisition of right-of-way, commencement of construction, and initiation of use, which assures compliance with paragraph (c) of this section.

(e) The State of Alaska shall report to the Administrator any additional highway proposed for the City of Fairbanks prior to the announcement of any corridor hearings.

(12.0) 52.93 Monitoring Transportation Trends

(a) This section is applicable to the State of Alaska.

(b) In order to assure the effectiveness of the inspection and maintenance program and the retrofit devices required under 52.88, 52.89, 52.90, 52.91, the State shall monitor the actual per-vehicle emission reductions occurring as a result of such measures. All data obtained from such monitoring shall be included in the quarterly report submitted to the Administrator by the State in accordance with 51.7 of this chapter. The first quarterly report shall cover the period January 1 to March 31, 1976.

(c) In order to assure the effective implementation of 52.85 of this chapter, the State shall monitor vehicle miles traveled and average vehicle speeds for each area in which the traffic flow improvement program is in effect and during such time periods as may be appropriate to evaluate the effectiveness of such a program. All data obtained from such monitoring shall be included in the quarterly report submitted to the Administrator by the State of Alaska in accordance with 51.7 of this chapter. The first quarterly report shall cover the period from July 1 to September 30, 1974. The vehicle miles traveled and vehicle speed data shall be collected on a monthly basis and submitted in a format similar to Table 1.

TABLE 1

Time period..................

Affected area................

Roadway type	VMT or average vehicle speed	
	Vehicle type (1)	Vehicle type (2)[1]
Freeway......................		
Arterial.....................		
Collector....................		
Local........................		

[1] Continue with other vehicle types as appropriate

(d) No later than March 1, 1974, the State shall submit to the Administrator a compliance schedule to implement this section. The program description shall include the following:

(1) The agency or agencies responsible for conducting, overseeing, and maintaining the monitoring program.

(2) The Administrative procedures to be used.

(3) A description of the methods to be used to collect the emissions data, VMT data, and vehicle speed data; a description of any modeling techniques to be employed; a description of the geographical area to which the data apply; identification of the location at which the data will be collected; and the time periods during which the data will be collected.

(17.0) 52.96 Prevention of Significant Deterioration

(b) Definitions. For the purposes of this section:

(1) "Facility" means an identifiable piece of process equipment. A stationary source is composed of one or more pollutant-emitting facilities.

(2) The phrase "Administrator" means the Administrator of the Environmental Protection Agency or his designated representative.

(3) The phrase "Federal Land Manager" means the head, or his designated representative, of any Department or Agency of the Federal Government which administers federally-owned land, including public domain lands.

(4) The phrase "Indian Reservation" means any federally-recognized reservation established by Treaty, Agreement, Executive Order, or Act of Congress.

(5) The phrase "Indian Governing Body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the United States and recognized by the United States as possessing power of self-government.

(6) "Construction" means fabrication, erection or installation of a stationary source.

(7) "Commenced" means that an owner or operator has undertaken a continuous program of construction or modification or that an owner or operator has entered into a contractual obligation to undertake and complete, within a reasonable time, a continuous program of construction or modification.

(c) Area designation and deterioration increment

(1) The provisions of this paragraph have been incorporated by reference into the applicable implementation plans for various States, as provided in Subparts B through DDD of this part. Where this paragraph is so incorporated, the provisions shall also be applicable to all lands owned by the Federal Government and Indian Reservations located in such State. The provisions of this paragraph do not apply in those counties or other functionally equivalent areas that pervasively exceeded any national ambient air quality standards during 1974 for sulfur dioxide or particulate matter and then only with respect to such pollutants. States may notify the Administrator at any time of those areas which exceeded the national standards during 1974 and therefore are exempt from the requirements of this paragraph.

(2) (i) For purposes of this paragraph, areas designated as Class I or II shall be limited to the following increases in pollutant concentration occurring since January 1, 1975:

Area Designations

Pollutant	Class I (ug/m^3)	Class II (ug/m^3)
Particulate matter:		
Annual geometric mean	5	10
24-hr maximum	10	30
Sulfur dioxide:		
Annual arithmetic mean	2	15
24-hr maximum	5	100
3-hr maximum	25	700

(ii) For purposes of this paragraph, areas designated as Class III shall be limited to concentrations of particulate matter and sulfur dioxide no greater than the national ambient air quality standards.

(iii) The air quality impact of sources granted approval to construct or modify prior to January 1, 1975 (pursuant to the approved new source review procedures in the plan) but not yet operating prior to January 1, 1975, shall not be counted against the air quality increments specified in paragraph (c) (2) (i) of this section.

(3) (i) All areas are designated Class II as of the effective date of this paragraph. Redesignation may be proposed by the respective States, Federal Land Manager, or Indian Governing Bodies, as provided below, subject to approval by the Administrator.

(ii) The State may submit to the Administrator a proposal to redesignate areas of the State Class I, Class II, or Class III, provided that:

(a) At least one public hearing is held in or near the area affected and this public hearing is held in accordance with procedures established in 51.4 of this chapter, and

(b) Other States, Indian Governing Bodies, and Federal Land Managers whose lands may be affected by the proposed redesignation are notified at least 30 days prior to the public hearing, and

(c) A discussion of the reasons for the proposed redesignation is available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing contains appropriate notification of the availability of such discussion, and

(d) The proposed redesignation is based on the record of the State's hearing, which must reflect the basis for the proposed redesignation, including consideration of (1) growth anticipated in the area, (2) the social, environmental, and economic effects of such redesignation upon the area being proposed for redesignation and upon other areas and States, and (3) any impacts of such proposed redesignation upon regional or national interests.

(e) The redesignation is proposed after consultation with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation.

(iii) Except as provided in paragraph (c) (3) (iv) of this section, a State in which lands owned by the Federal Government are located may submit to the Administrator a proposal to redesignate such lands Class I, Class II, or Class III in accordance with subdivision (ii) of this subparagraph provided that:

(a) The redesignation is consistent with adjacent State and privately owned land, and

(b) Such redesignation is proposed after consultation with the Federal Land Manager.

(iv) Notwithstanding subdivision (iii) of this subparagraph, the Federal Land Manager may submit to the Administrator a proposal to redesignate any Federal lands to a more restrictive designation than would otherwise be applicable provided that:

(a) The Federal Land Manager follows procedures equivalent to those required of States under paragraph (c) (3) (ii) and,

(b) Such redesignation is proposed after consultation with the State(s) in which the Federal Land is located or which border the Federal Land.

(v) Nothing in this section is intended to convey authority to the States over Indian Reservations where States have not assumed such authority under other laws nor is it intended to deny jurisdiction which States have assumed under other laws. Where a State has not assumed jurisdiction over an Indian Reservation the appropriate Indian Governing Body may submit to the Administrator a proposal to redesignate areas Class I, Class II, or Class III, provided that:

(a) The Indian Governing Body follows procedures equivalent to those required of States under paragraph (c) (3) (ii) and,

(b) Such redesignation is proposed after consultation with the State(s) in which the Indian Reservation is located or which border the Indian Reservation and, for those lands held in trust, with the approval of the Secretary of the Interior.

(vi) The Administrator shall approve, within 90 days, any redesignation proposed pursuant to this subparagraph as follows:

(a) Any redesignation proposed pursuant to subdivisions (ii) and (iii) of this subparagraph shall be approved unless the Administrator determines (1) that the requirements of subdivisions (ii) and (iii) of this subparagraph have not been complied with, (2) that the State has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph, or (3) that the State has not requested and received delegation of responsibility for carrying out the new source review requirements of paragraphs (d) and (e) of this section.

(b) Any redesignation proposed pursuant to subdivision (iv) of this subparagraph shall be approved unless he determines (1) that the requirements of subdivision (iv) of this subparagraph have not been complied with, or (2) that the Federal Land Manager has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph.

(c) Any redesignation submitted pursuant to subdivision (v) of this subparagraph shall be approved unless he determines (1) that the requirements of subdivision (v) of this subparagraph have not been complied with, or (2) that the Indian Governing Body has arbitrarily and capriciously disregarded relevant considerations set forth in subparagraph (3) (ii) (d) of this paragraph.

(d) Any redesignation proposed pursuant to this paragraph shall be approved only after the Administrator has solicited written comments from affected Federal agencies and Indian Governing Bodies and from the public on the proposal.

(e) Any proposed redesignation protested to the proposing State, Indian Governing Body, or Federal Land Manager and to the Administrator by another State or Indian Governing Body because of the effects upon such protesting State or Indian Reservation shall be approved by the Administrator only if he determines that in his judgment the redesignation appropriately balances considerations of growth anticipated in the area proposed to be redesignated; the social, environmental and economic effects of such redesignation upon the area being redesignated and upon other areas and States; and any impacts upon regional or national interests.

(f) The requirements of paragraph (c) (3) (vi) (a) (3) that a State request and receive delegation of the new source review requirements of this section as a condition to approval of a proposed redesignation, shall include as a minimum receiving the administrative and technical functions of the new source review. The Administrator will carry out any required enforcement action in cases where the State does not have adequate legal authority to initiate such actions. The Administrator may waive the requirements of paragraph (c) (3) (vi) (a) (3) if the State Attorney-General has determined that the State cannot accept delegation of the administrative/technical functions.

(vii) If the Administrator disapproves any proposed area designation under this subparagraph, the State, Federal Land Manager or Indian Governing Body, as appropriate, may resubmit the proposal after correcting the deficiencies noted by the Administrator or reconsidering any area designation determined by the Administrator to be arbitrary and capricious.

(d) Review of new sources

(1) The provisions of this paragraph have been incorporated by reference into the applicable implementation plans for various States, as provided in Subparts B through DDD of this part. Where this paragraph is so incorporated, the requirements of this paragraph apply to any new or modified stationary source of the type identified below which has not commenced construction or modification prior to June 1, 1975 except as specifically provided below. A

source which is modified, but does not increase the amount of sulfur oxides or particulate matter emitted, or is modified to utilize an alternative fuel, or higher sulfur content fuel, shall not be subject to this paragraph.

(i) Fossil-Fuel Steam Electric Plants of more than 1000 million B.T.U. per hour heat input.

(ii) Coal Cleaning Plants.

(iii) Kraft Pulp Mills.

(iv) Portland Cement Plants.

(v) Primary Zinc Smelters.

(vi) Iron and Steel Mills.

(vii) Primary Aluminum Ore Reduction Plants.

(viii) Primary Copper Smelters.

(ix) Municipal Incinerators capable of charging more than 250 tons of refuse per 24 hour day.

(x) Sulfuric Acid Plants.

(xi) Petroleum Refineries.

(xii) Lime Plants.

(xiii) Phosphate Rock Processing Plants.

(xiv) By-Product Coke Oven Batteries.

(xv) Sulfur Recovery Plants.

(xvi) Carbon Black Plants (furnace process).

(xvii) Primary Lead Smelters.

(xviii) Fuel Conversion Plants.

(xix) Ferroalloy production facilities commencing construction after October 5, 1975.

(2) No owner or operator shall commence construction or modification of a source subject to this paragraph unless the Administrator determines that, on the basis of information submitted pursuant to subparagraph (3) of this paragraph:

(i) The effect on air quality concentration of the source or modified source, in conjunction with the effects of growth and reduction in emissions after January 1, 1975, of other sources in the area affected by the proposed source, will not violate the air quality increments applicable in the area where the source will be located nor the air quality increments applicable in any other areas. The analysis of emissions growth and reduction after January 1, 1975, of other sources in the areas affected by the proposed source shall include all new and modified sources granted approval to construct pursuant to this paragraph; reduction in emissions from existing sources which contributed to air quality during all or part of 1974; and general commercial, residential, industrial, and other sources of emissions growth not exempted by paragraph (c) (2) (111) of this section which has occurred since January 1, 1975.

(ii) The new or modified source will meet an emission limit, to be specified by the Administrator as a condition to approval, which represents that level of emission reduction which would be achieved by the application of best available control technology, as defined in 52.01 (f), for particulate matter and sulfur dioxide. If the Administrator determines that technological or economic limitations on the application of measurement methodology to a particular class of sources would make the imposition of an emission standard infeasible, he may instead prescribe a design or equipment standard requiring the application of best available control technology. Such standard shall to the degree possible set forth the emission reductions achievable by implementation of such design or equipment, and shall provide for compliance by means which achieve equivalent results.

(iii) With respect to modified sources, the requirements of subparagraph (2) (ii) of this paragraph shall be applicable only to the facility or facilities from which emissions are increased.

(3) In making the determinations required by paragraph (d) (2) of this section, the Administrator shall, as a minimum, require the owner or operator of the source subject to this paragraph to submit: site information, plans, description, specifications, and drawings showing the design of the source; information necessary to determine the impact that the construction or modification will have on sulfur dioxide and particulate matter air quality levels; and any other information necessary to determine that best available control technology will be applied. Upon request of the Administrator, the owner or operator of the source shall provide information on the nature and extent of general commercial, residential, industrial, and other growth which has occurred in the area affected by the source's emissions (such area to be specified by the

Administrator) since January 1, 1975.

(4) (i) Where a new or modified source is located on Federal Lands, such source shall be subject to the procedures set forth in paragraphs (d) and (e) of this section. Such procedures shall be in addition to applicable procedures conducted by the Federal Land Manager for administration and protection of the affected Federal Lands. Where feasible, the Administrator will coordinate his review and hearings with the Federal Land Manager to avoid duplicate administrative procedures.

(ii) New or modified sources which are located on Indian Reservations shall be subject to procedures set forth in paragraphs (d) and (e) of this section. Such procedures shall be administered by the Administrator in cooperation with the Secretary of the Interior with respect to lands over which the State has not assumed jurisdiction under other laws.

(iii) Whenever any new or modified source is subject to action by a Federal Agency which might necessitate preparation of an environmental impact statement pursuant to the National Environmental Policy Act (42 U.S.C. 4321), review by the Administrator conducted pursuant to this paragraph shall be coordinated with the broad environmental reviews under that Act, to the maximum extent feasible and reasonable.

(5) Where an owner or operator has applied for permission to construct or modify pursuant to this paragraph and the proposed source would be located in an area which has been proposed for redesignation to a more stringent class (or the State, Indian Governing Body, or Federal Land Manager has announced such consideration), approval shall not be granted until the Administrator has acted on the proposed redesignation.

(e) Procedures for public participation

(1) (i) Within 20 days after receipt of an application to construct, or any addition to such application, the Administrator shall advise the owner or operator of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the date of receipt of the application for the purpose of paragraph (e) (1) (ii) of this section shall be the date on which all required information is received by the Administrator.

(ii) Within 30 days after receipt of a complete application, the Administrator shall:

(a) Make a preliminary determination whether the source should be approved, approved with conditions, or disapproved.

(b) Make available in at least one location in each region in which the proposed source would be constructed, a copy of all materials submitted by the owner or operator, a copy of the Administrator's preliminary determination and a copy or summary of other materials, if any, considered by the Administrator in making his preliminary determination; and

(c) Notify the public, by prominent advertisement in newspaper of general circulation in each region in which the proposed source would be constructed, of the opportunity for written public comment on the information submitted by the owner or operator and the Administrator's preliminary determination on the approvability of the source.

(iii) A copy of the notice required pursuant to this subparagraph shall be sent to the applicant and to officials and agencies having cognizance over the locations where the source will be situated as follows: State and local air pollution control agencies, the chief executive of the city and county; any comprehensive regional land use planning agency; and any State, Federal Land Manager or Indian Governing Body whose lands will be significantly affected by the source's emissions.

(iv) Public comments submitted in writing within 30 days after the date such information is made available shall be considered by the Administrator in making his final decision on the application. No later than 10 days after the close of the public comment period, the applicant may submit a written response to any comments submitted by the public. The Administrator shall consider the applicant's response in making his final decision. All comments shall be made available for public inspection in at least one location in the region in which the source would be located.

(v) The Administrator shall take final action on an application within 30 days after the close of the public comment period. The Administrator shall notify the applicant in writing of his approval, conditional approval, or denial of the application, and shall set forth his reasons for conditional approval or denial. Such notification shall be made available for public inspection in at least one location in the region in which the source would be located.

(vi) The Administrator may extend each of the time periods specified in paragraph (e) (1) (ii), (iv), or (v) of this section by no more than 30 days or such other period as agreed to by the applicant and the Administrator.

(2) Any owner or operator who constructs, modifies, or operates a stationary source not in accordance with the application, as approved and conditioned by the Administrator, or any owner or operator of a stationary source subject to this paragraph who commences construction or modification after June 1, 1975, without applying for and receiving approval hereunder, shall be subject to enforcement action under section 113 of the Act.

(3) Approval to construct or modify shall become invalid if construction or expansion is not commenced within 18 months after receipt of such approval or if construction is discontinued for a period of 18 months or more. The Administrator may extend such time period upon a satisfactory showing that an extension is justified.

(4) Approval to construct or modify shall not relieve any owner or operator of the responsibility to comply with the control strategy and all local, State, and Federal regulations which are part of the applicable State Implementation Plan.

(f) Delegation of authority

(1) The Administrator shall have the authority to delegate responsibility for implementing the procedures for conducting source review pursuant to paragraphs (d) and (e), in accordance with subparagraphs (2), (3), and (4) of this paragraph.

(2) Where the Administrator delegates the responsibility for implementing the procedures for conducting source review pursuant to this section to any Agency, other than a regional office of the Environmental Protection Agency, the following provisions shall apply:

(i) Where the agency designated is not an air pollution control agency, such agency shall consult with the appropriate State and local air pollution control agency prior to making any determination required by paragraph (d) of this section. Similarly, where the agency designated does not have continuing responsibilities for managing land use, such agency shall consult with the appropriate State and local agency which is primarily responsible for managing land use prior to making any determination required by paragraph (d) of this section.

(ii) A copy of the notice pursuant to paragraph (e) (1) (ii) (c) of this section shall be sent to the Administrator through the appropriate regional office.

(3) In accordance with Executive Order 11752, the Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be delegated, other than to a regional office of the Environmental Protection Agency, for new or modified sources which are owned or operated by the Federal government or for new or modified sources located on Federal lands; except that, with respect to the latter category, where new or modified sources are constructed or operated on Federal lands pursuant to leasing or other Federal agreements, the Federal land Manager may at his discretion, to the extent permissible under applicable statutes and regulations, require the lessee or permittee to be subject to a designated State or local agency's procedures developed pursuant to paragraphs (d) and (e) of this section.

(4) The Administrator's authority for implementing the procedures for conducting source review pursuant to this section shall not be redelegated, other than to a regional office of the Environmental Protection Agency, for new or modified sources which are located on Indian reservations except where the State has assumed jurisdiction over such land under other laws, in which case the Administrator may delegate his authority to the States in accordance with subparagraphs (2), (3), and (4) of this paragraph.

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